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OF THE
ROYAL ASIATIC SOCIETY.

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Addenda et Corrigenda to the Bombay Code, Ed. 1907.

Volume I, page 2.—After "Chapter VI" of Bombay Regulation II of 1827 *insert* reference figure "2" and after the first footnote [1] *insert* the following footnote:—

"[2] This Chapter and Appendices J, K and L have been reprinted as an Addendum to Volume IV of this Code. [S. 42 of the Legal Practitioners Act, 1879 (18 of 1879), as amended by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, has not yet been declared in force in the Bombay Presidency.]

Volume I, page 3.—After 280 in note 1 at the foot of the page add the following footnote:—

"*See* second footnote on page 2, *ante*".

Volume II, page 584.—For Clause (7) of section 3 of the Bombay Abkari Act, 1878 (Bombay Act 5 of 1878), substitute the following:—

"(7) 'liquor' includes spirits of wine, [1A] [methylated spirits,] spirits, wine, toddy, beer and all liquid consisting of, or containing, alcohol [1A] [and 'spirits' means any liquor containing alcohol and obtained by distillation, whether it be denaturalised so as to render it unfit for human consumption or not]."

At the foot of page 584 *insert* the following footnote:—

"[1A] The words in square brackets in clause (7) were inserted by the Bombay Abkari (Amendment) Act, 1903 (Bombay Act 1 of 1903), section 2, Volume IV of this Code."

[The following corrigenda are to be substituted for those issued with the Bombay Code, Ed. 1907, Vol. III.]

Volume II, page 590.—*For* sub-section (2) of section 18A of the Bombay Abkari Act, 1878 (Bombay Act 5 of 1878), *substitute* the following:—

"(2) In this section 'prescribed area' means such area, comprising either the whole or some portion of the districts of [3] [Broach, Nasik (except the taluka of Peint)] Thana and Kolaba [3] [and of the talukas of Pardi, Bulsar and Chikhli of the district of Surat], as the Governor in Council from time to time [2] notifies in this behalf; and 'prescribed limit' means four sers or such greater quantity as the Governor in Council from time to time notifies in this behalf:"

At the foot of page 590 *insert* the following footnote:—

[3] The words in square brackets were inserted by Bombay Act 3 of 1905, section 1, clauses (*a*) and (*b*), respectively, Volume IV of this Code.

Page 601.—*For* clause (*c*) of section 45 of the Bombay Abkari Act, 1878 (Bombay Act 5 of 1878), *substitute* the following:—

"[3] [wilfully does or omits to do anything] in breach of any of the conditions of his license not otherwise provided for in this Act, or";

and for clause (*e*) of the same section *substitute* the following:—

[3] [wilfully does or omits to do anything] in breach of the conditions on which he is permitted to manufacture liquor in any such public distillery, or";

At the foot of page 601 *insert* the following footnote:—

"[3] The words in square brackets were inserted by the Bombay Repealing and Amending Act, 1905 (Bombay Act 4 of 1905), section 2, and schedule I, Volume IV of this Code."

THE

BOMBAY CODE.

VOLUME IV.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

THE

BOMBAY CODE

IN FOUR VOLUMES.

VOLUME IV: 102643

CONTAINING

THE UNREPEALED ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL IN FORCE IN BOMBAY, FROM 1898 TO 1908 INCLUSIVE,

WITH AN ADDENDUM;

A CHRONOLOGICAL TABLE OF ENACTMENTS REPRODUCED IN THE VOLUME

AND

AN INDEX TO THE ENTIRE CODE.

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CHRONOLOGICAL TABLE OF ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL IN FORCE IN BOMBAY (*1898 to 1908*).

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„	IV	The City of Bombay Improvement Act, 1898.	Rep. in part and amended, Bom. Act 4 of 1901. Amended, Bom. Act 3 of 1907 (when notified). Amended, Bom. Act 2 of 1908. Supplemented and Validated Act 14 of 1904.	1434
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„	III	The Government Occupants (Sind) Act, 1899.	Rep. in part, Bom. Act 4 of 1905.	1507
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„	III	The Bombay City Land Revenue (Amendment) Act, 1900.	....	1511
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1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
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1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
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THE BOMBAY CODE.

VOLUME IV:

ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL FROM 1898 TO 1908.

BOMBAY ACT No. I OF 1898[1].

[*3rd June, 1898.*]

An Act to supplement the provisions of the City of Bombay Municipal Act, 1888, with respect to the Investment of Sinking Funds and Surplus Moneys, and to validate certain Debentures.

Bom. Act III of 1888.

WHEREAS it is expedient to supplement the provisions of the [2]City of Bombay Municipal Act, 1888, with respect to the investment in public securities of sinking funds and surplus moneys of the Municipal Corporation of the City of Bombay; and whereas it is also expedient to remove doubts which have arisen with respect to the validity of certain debentures of the Corporation, in which portions of their sinking funds and surplus moneys purport to have been heretofore invested, and to obviate the extinction of such debentures of the Corporation as have been, or may hereafter be, issued in or transferred to the name of the Corporation or to the name of the Municipal Commissioner for the City of Bombay on behalf of the Corporation in respect of any such investments;

It is hereby enacted as follows :—

1. This Act may be cited as the City of Bombay Municipal Investments Act, 1898.

Bom. Act III of 1888.

2. (*1*) In respect of any Sinking Funds which, by the [2]City of Bombay Municipal Act, 1888, the Corporation are directed or empowered to invest in public securities, and in respect of any surplus moneys which, by the same Act (as amended by the [2]City of Bombay Municipal Act Amendment Act, 1893), the Municipal Commissioner on behalf of the Corporation is empowered to invest in like securities, it shall be lawful for the Corporation to reserve and set apart for the purposes of any such investment any debentures to be issued on account of any loan for which the sanction of the Governor General of India in Council shall have been duly obtained under section 106 of the [2] City

Bom. Act I of 1894.

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1898, Pt. V p. 73; and for proceedings in Council, *see ibid*, p. 205.

2 Vol. III of this Code, p. 975.

of Bombay Municipal Act, 1888, provided that the intention to so reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(*2*) The issue of any such debentures direct to and in the name of "The Municipal Commissioner for the City of Bombay" on behalf of the Corporation shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

3. The purchase by, or the transfer, assignment or endorsement to, the Corporation or to the Municipal Commissioner on behalf of the Corporation of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person.

4. All the several debentures of the Corporation heretofore issued, transferred, assigned or endorsed in the name of the Corporation or in the name of the Municipal Commissioner on behalf of the Corporation as specified in Schedule A, and all debentures heretofore issued by way of renewal, consolidation or sub-division of any of the said debentures shall be deemed to be and to have always been valid and negotiable in all respects and in the same manner as if the same had been issued against moneys borrowed from the Secretary of State or any other person.

5. The signature of the person for the time being holding the office of the Municipal Commissioner for the City of Bombay to a transfer of any debenture standing in the name of the Corporation or of the Municipal Commissioner on behalf of the Corporation shall be valid and sufficient, notwithstanding that such person may not have held the said office at the time when such debenture was issued, transferred, assigned or endorsed to the name of the Corporation or the Municipal Commissioner as aforesaid.

SCHEDULE A.

Particulars of Loans and Numbers of Debentures.	Number.	Amount.	Total.	Grand Total.
		Rs.	Rs.	Rs.
5 per cent. Bombay Municipal Loan (Rs. 10,08,500) for Drainage and Water Works, Markets and Roads.				
Nos. 445 to 729	285	500	1,42,500	
„ 730 to 741	12	500	6,000	
				1,48,500
5 per cent Agripada House Sullage Water Connections Loan (Rs. 2,48,000).				
Nos. 1 to 170	170	500	85,000	
„ 171 to 182	12	500	6,000	
„ 183 to 188	6	500	3,000	
„ 485 to 492	8	500	4,000	
„ 493 to 496	4	500	2,000	
				1,00,000
The (5 per cent.) 35 Lakhs various Sanitary Works Loan.				
Nos. 6801 to 6825	25	500	12,500	
„ 6826 to 6876	51	500	25,500	
„ 6877 to 6888	12	500	6,000	
„ 6889 to 6894	6	500	3,000	
„ 6895 to 6902	8	500	4,000	
„ 6903 to 6967	65	500	32,500	
„ 6968 to 6992	25	500	12,500	
„ 6993 to 7000	8	500	4,000	
				1,00,000
5 per cent. Tánsa Water Works Loan (Rs. 147 Lakhs).				
Nos. 24401—24450 to 25351—25400 ..	20	25,000	5,00,000	
„ 25401—25440 to 26201—26240 ..	21	20,000	4,20,000	
„ 26241—26270 to 27261—27290 ..	35	15,000	5,25,000	
„ 27291—27310 to 28271—28290 ..	50	10,000	5,00,000	
„ 28291—28300 to 28481—28490 ..	20	5,000	1,00,000	
„ 28491—28494 to 28887—28890 ..	100	2,000	2,00,000	
„ 28891—28892 to 29229—29230 ..	170	1,000	1,70,000	
„ 29231—29270 to 29351—29390 ..	4	20,000	80,000	
„ 29391—29392 and 29393—29394 ..	2	1,000	2,000	
„ 29395—29396 to 29399—29400 ..	3	1,000	3,000	
				25,00,000
The (5 per cent.) Municipal Building Loan (Rs. 8,00,000).				
Nos. 1—50 to 151—200	4	25,000	1,00,000	
„ 201—240 to 361—400	5	20,000	1,00,000	
„ 401—430 to 551—580	6	15,000	90,000	
„ 581—600 to 961—980	20	10,000	2,00,000	
„ 981—990 to 1171—1180	20	5,000	1,00,000	
„ 1181—1184 to 1377—1380	50	2,000	1,00,000	
„ 1381—1382 to 1599—1600	110	1,000	1,10,000	
				8,00,000
Total 5 per cent. Loan Debentures ..	...	...	...	36,48,000

SCHEDULE A—*contd.*

Particulars of Loans and Numbers of Debentures.	Number	Amount.	Total.	Grand Total.
		Rs.	Rs.	Rs.
The (4 per cent.) Loan of 4½ Lakhs for Fire Brigade Quarters and Stations.				
Nos. 1—20 to 181—200	10	10,000	1,00,000	
„ 201—210 to 291—300	10	5,000	50,000	
„ 301—304 to 417—420	30	2,000	60,000	
„ 421—422 to 479—480	30	1,000	30,000	
„ 481 to 500	20	500	10,000	
Total 4 per cent. Loan Debentures ..	..	..	..	2,50,000
GRAND TOTAL		..	..	38,98,500

BOMBAY ACT No. II OF 1898[1].

[*3rd June, 1898.*]

An Act to amend the Sind Village Officers Act, 1881, as amended by Bombay Act II of 1888.

WHEREAS it is expedient further to amend the [2] Sind Village Officers Act, 1881, as amended by [3]Bombay Act II of 1888, in manner hereinafter appearing; Bom. IV of 1881.

It is enacted as follows :—

Amendment of section 2 of Bombay Act IV of 1881.

1. In section 2 of the said Act, for the words "Kotars or Tapedárs' peons" there shall be substituted the following, *viz.* :—

"Supervising, Probationary, Special and Naib Tapedárs, Zabits, and Kotars or Tapedárs' peons."

2 and 3. [*Amendment of section 6 of Bombay Act IV of 1881.*] *Rep. Act IV of 1907.*

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1897, Pt. V, p. 209; for Report of Select Committee, *see ibid*, p. 210; and for proceedings in Council, *see ibid*, p. 249, and *ibid*, 1898, pp. 63 and 186.

2 Vol. II of this Code, p. 196.

3 Vol. III of this Code, p. 949.

BOMBAY ACT No. III OF 1898[1].

[*3rd August, 1898.*]

An Act to amend the [2]Bombay District Police Act, 1890.

Bom. Act IV of 1890.

WHEREAS it is expedient to amend the [2]Bombay District Police Act, 1890, in manner hereinafter appearing ; It is enacted as follows :—

Bom. Act IV of 1890.

1. For section 1 of the Bombay District Police Act, 1890, which is hereinafter referred to as the said Act, there shall be substituted the following, *viz.*:— Amendment of section 1.

[Vol. III of this Code, p. 1337.]

2. In section 2 of the said Act, for the word and figure "sub-section (*1*)" there shall be substituted the following, *viz.* :— Amendment of section 2.

"Sub-section (*2*)."

3. For sub-section (*2*) of section 25 of the said Act there shall be substituted the following, *viz.* :— Amendment of sub-section (2) of section 25.

[Vol. III of this Code, p. 1344.]

4. After sub-section (*2*) of section 25 of the said Act there shall be inserted the following new sub-section, to be numbered (*3*), *viz.* :— Insertion of new sub-section (*3*) in section 25.

[Vol. III of this Code, p. 1344.]

5. For sub-section (*3*) of section 25 of the said Act the following, which shall be numbered sub-section (*4*), shall be substituted, *viz.* :— Amendment of sub-section (*3*) of section 25.

[Vol. III of this Code, p. 1344.]

6. After new sub-section (*4*) of section 25 of the said Act there shall be inserted the following new sub-section, *viz.* :— Insertion of new sub-section (*5*) in section 25.

[Vol. III of this Code, p. 1345.]

7. After section 25 of the said Act there shall be inserted the following new section, *viz.* :— New section added.

[Vol. III of this Code, p. 1345.]

8. (*1*) In sub-section (*1*) of section 26 of the said Act,— Amendment of section 26.

(*a*) after the word "Every" there shall be inserted the following, *viz.* :—

"tax imposed or" ;

(*b*) for the words "last preceding section," there shall be substituted the following, *viz.* :—

"the last two preceding sections" ; and

(*c*) at the end of the said sub-section (*1*) there shall be added the following, *viz.* :—

[Vol. III of this Code, p. 1346.]

---

1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1897, Pt. V, p. 270 ; for Report of Select Committee, *see ibid*, 1898, p. 1 ; and for proceedings in Council, *see ibid*, 1897, p. 249, and *ibid*, 1898, pp. 188 and 292.

2 Vol. III of this Code, p. 1337.

(*2*) In sub-section (*2*) of the same section,—

(*a*) after the word "Every" there shall be inserted the following, *viz.* :—

"tax imposed or"; and

(*b*) after the words "rate assessed", there shall be inserted the following, *viz.* :—

"or amount recoverable".

New section added.

9. After section 26 of the said Act there shall be inserted the following new section, *viz.* :—

[Vol. III of this Code, p. 1346.]

Amendment of section 42.

10. In sub-section (*1*) of section 42 of the said Act, after the words "singing of songs," there shall be inserted the following, *viz.* :—

"playing of music."

Amendment of section 48.

11. In clause (*a*) of sub-section (*1*) of section 48 of the said Act, after the words "conduct of," there shall be inserted the following, *viz.* :—

"and behaviour or action of persons constituting",

BOMBAY ACT No. IV OF 1898.

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BOMBAY ACT No. IV OF 1898[1].

[*30th August, 1898.*]

An Act for the improvement of the City of Bombay and to provide space for its future expansion.

WHEREAS it is expedient to make provision for the improvement and for

1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1898, Pt. V, p. 53 ; for Report of Select Committee, *see ibid*, p. 53, and for proceedings in Council, *see ibid*, pp. 157, 232, 276 and 295.

the future expansion of the City of Bombay, by forming new and altering existing streets, by removing or altering insanitary buildings in certain areas, by providing open spaces for better ventilation and for recreation, by constructing new sanitary dwellings for certain class of the inhabitants of the said City and for the Presidency Police, by laying out vacant lands and by reclaiming and laying out parts of the foreshore of the Island of Bombay; and whereas it is expedient that a Board of Trustees should be appointed and endowed with special powers to carry out the foresaid purposes in the manner and subject to the restrictions and condition hereinafter specified, and whereas it is proposed that certain lands and reclamation rights shall be vested in the Board in the manner hereinafter appearing, and whereas the plans of such last mentioned lands have been deposited with the Collector of Bombay and are hereinafter referred to as the deposited plans; It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the City of Bombay Improvement Act, 1898.

(*a*) It extends only to the City of Bombay.

(*b*) It shall come into force immediately on the passing thereof.

Saving the provisions of the Indian Telegraph Act and the Indian Railways Act.

(*2*) Nothing in this Act shall be deemed to affect the provisions of the [1]Indian Telegraph Act, 1885, or the [1]Indian Railways Act, 1890.

XIII of 1885. IX of 1890.

Definition of terms.

2. In this Act, unless there be something repugnant in the subject or context, words shall be deemed to have the meaning ascribed to such words under the [2] City of Bombay Municipal Act, 1888, as from time to time amended, hereinafter referred to as "the Municipal Act":

Bom. III of 1888.

"Street."

Provided that the definition of the word "street" shall be read as if the words following the words "thoroughfare or not" were omitted:

"Public securities."

Provided also that the term "public securities" shall include securities issued under this Act:

"Land."

Provided also that in the construction of the provisions of Chapter III of this Act and of sections 60, 61 and 62, the word "land" shall, unless there be something repugnant in the subject or context, be deemed to have the meaning ascribed to it in sub-section (*1*) of section 47 of this Act.

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[1] General Acts, Vol. V.
[2] Vol. II of this Code, p. 975.

CHAPTER II.

OF THE BOARD OF TRUSTEES.

Constitution of Board.

Board charged with execution of this Act.

3. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called "The Trustees for the Improvement of the City of Bombay"; and such Board, hereinafter referred to as "the Board", shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Constitution of the Board.

4. The Board shall consist of fourteen members, that is to say, of three *ex officio* Trustees, seven elected Trustees, three nominated Trustees, and a Chairman who shall also be a Trustee.

The *ex officio* Trustees shall be—

(*1*) the General or other Military Officer Commanding Bombay District,

(*2*) the Collector,

and

(*3*) the Commissioner.

Elected Trustees to be elected by the Corporation, the Chamber of Commerce, the Trustees of the Port of Bombay and the Mill-owners' Association.

5. Of the elected Trustees four shall be elected by the Corporation, one by the Bombay Chamber of Commerce (hereinafter called the Chamber), one by the Trustees of the Port of Bombay (hereinafter called the Port Trustees) and one by the Bombay Mill-owners' Association (hereinafter called the Mill-owners' Association), out of their own bodies, respectively, and any Trustee so elected shall be re-eligible.

Method of election.

6. The election of Trustees—

(*1*) by the Corporation, the Port Trustees and the Mill-owners' Association shall be in accordance with regulations which those bodies may respectively frame, provided that the election by the Corporation shall be by open vote;

(*2*) by the Chamber shall be held in the manner laid down in the Rules and Regulations of the Chamber for the election of Port Trustees.

Report to be made of election.

7. Upon the election of any Trustee or Trustees, the President of the Corporation, or the Secretary of the Chamber or the Secretary of the Port Trustees, or the Secretary of the Mill-owners' Association, as the case may be, shall

forthwith make a return to Government of the name or names of the person or persons elected as aforesaid, and such return shall be published in the *Bombay Government Gazette.*

Procedure in event of default to elect.

8. In the event of default being made by the Corporation, or the Chamber, or the Port Trustees, or the Mill-owners' Association, in electing any Trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government, by notification in the *Bombay Government Gazette*, to nominate a person belonging to the body so making default, and the person so nominated shall be deemed to be a Trustee as if he had been duly elected by the Corporation, or the Chamber, or the Port Trustees, or the Mill-owners' Association, respectively.

Appointment of nominated Trustees and the Chairman.

9. The nominated Trustees and the Chairman shall be appointed by Government by notification in the *Bombay Government Gazette.*

Term of office of first Trustees when to commence.

10. The term of office of the first nominated and elected Trustees shall commence on such date not being within thirty days from the date of this Act coming into force as shall be notified in this behalf by Government.

Election and appointment of Trustees.

11. Upon the publication of the notification under section 10, the Corporation, the Chamber, the Port Trustees and the Mill-owners' Association shall respectively proceed to elect Trustees as hereinbefore provided. The Trustees first to be elected shall be elected on some day not later than a fortnight previous to the date which shall be notified under the said section, and the Trustees first to be nominated shall be appointed on some day during the said fortnight; in every other case elected Trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominated Trustees shall be appointed on some day in the remainder of the said month of March.

Duration of term of office of Trustees.

12. (*1*) The Chairman shall be from time to time appointed by Government for a period of not less than three years: provided that he may be removed from office by Government at any time, if it shall appear to Government that he has shown himself unsuitable for the office, or that he has been guilty of any misconduct or neglect which renders his removal expedient.

(*2*) The first nominated Trustees and four of the first elected Trustees, to be selected by lot at such time and in such manner as the Chairman shall determine, shall hold office up to and inclusive of the 31st day of March, 1901.

(*3*) The remaining three of the first elected Trustees shall hold office up to and inclusive of the 31st day of March, 1900.

In every other case the nominated and elected Trustees shall hold office for a term of two years.

Casual vacancies.

13. (*1*) Any casual vacancy in the office of a Trustee other than the Chairman occasioned by the death, resignation or disqualification of such Trustee shall be filled up within one month by Government, if the office vacated was that of a nominated Trustee, or by the Corporation or the Chamber or the Port Trustees or the Mill-owners' Association, respectively, if it was that of an elected Trustee in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and election of Trustees: provided that the Trustee so chosen shall retain his office so long only as the vacating Trustee would have retained the same, if such vacancy had not occurred.

For periods exceeding three months.

(*2*) If a Trustee, other than the Chairman,—

(*a*) departs from Bombay with a declared intention of being absent for a period exceeding three months; or

(*b*) becomes from any cause unable to attend the meetings of the Board for a period exceeding three months; or

(*c*) has been absent from Bombay for a period exceeding three months;

a person shall be elected or appointed to act for such Trustee during his absence or inability or until he shall cease to be a Trustee, and the person so acting shall be deemed for all the purposes of this Act to be a Trustee.

Saving provision for acting appointment when necessary for less than three months.

(*3*) Nothing in the last preceding sub-section shall prevent a person being elected or appointed for a period of less than three months in the place of an absent Trustee at the discretion of Government in case the absentee is a nominated Trustee, and on the application of the Board to the electoral body concerned if the absentee is an elected Trustee.

Disqualification of Trustees.

Causes which disqualify.

14. (*1*) A person shall be disqualified to be a Trustee who—

(*a*) is an uncertificated bankrupt or insolvent; or

(*b*) has been sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed; or

(*c*) holds any office or place of profit under the Board; or

(*d*) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the Board.

(2) But a person other than the Chairman shall not be so disqualified, or be deemed to have any share or interest in such contract or employment, by reason only of his having a share or interest in— Proviso.

(*e*) any lease, sale, exchange or purchase of immoveable property or any agreement for the same ; or

(*f*) any agreement for the loan of money, or any security for the payment of money only ; or

(*g*) any newspaper in which any advertisement relating to the affairs of the Board is inserted ; or

(*h*) any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board ; or

(*i*) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades.

Grounds on which Trustees shall vacate office.

15. (*1*) Any Trustee who—

(*a*) becomes disqualified for any of the reasons mentioned in the last preceding section ; or

(*b*) is absent from or unable to attend the meetings of the Board for a period exceeding twelve consecutive months, or is absent without the permission of the Board from six consecutive ordinary meetings of the Board ; or

(*c*) acts in contravention of the provisions of the next succeeding sub-section ; or

(*d*) being an elected Trustee shall cease to be a Councillor, or a member of the Chamber, or a Port Trustee, or a member of the Mill-owners' Association, as the case may be,

shall cease to be a Trustee, and his office shall thereupon become vacant :

Provided that clause (*d*) shall not be deemed to apply to a Councillor or a Port Trustee who shall upon ceasing to be a Councillor or Port Trustee, as the case may be, be forthwith re-appointed or re-elected as a Councillor or Port Trustee.

Restriction on power of Trustees to vote or discuss matters in which they are interested.

(2) A Trustee shall not at any meeting of the Board or a Committee thereof take part in the discussion of, or vote on, any matter in which he has directly or indirectly, by himself or his partner, any share or interest such as is described in sub-section (2) of section 14 or in which he is interested either professionally on behalf of a client or as agent for any person.

Government to determine

16. (*1*) The Chairman shall receive such monthly salary as Government shall from time to time determine : provided that such salary shall not exceed

salary of Chairman.

Rs. 3,000, and, save during the twelve months next succeeding the date which shall be notified under section 10, shall not be less than Rs. 2,000. He shall, except within the period aforesaid, hold no other salaried office, and, save in so far as he may be otherwise permitted by Government, shall devote his whole time and attention to his duties under this Act.

(*2*) For the purpcses of this section and of section 22 "salary" shall be deemed to be exclusive of any aliowance to which the officer appointed may be entitled or any contribution which he may be liable to pay under the Civil Service Regulations.

Fees to which Trustees other than the Chairman shall be entitled.

17. Every Trustee other than the Chairman who shall attend a meeting at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof, shall be entitled to a fee of—

For an ordinary meeting.

Rs. 30 for every ordinary meeting of the Board, provided that if such meeting is adjourned or more than one ordinary meeting is held in any one week, no more than Rs. 30 shall be paid to any Trustee for his attendance at all such meetings during that one week;

For a special meeting.

Rs. 30 for every special meeting of the Board convened under sub-section (*2*) (*b*) of the next succeeding section;

For a special meeting of a Committee.

Rs. 15 for every special meeting of a Committee of which such Trustee attending is a member, convened under sub-section (*4*) of the next succeeding section, provided that such special meeting of a Committee is not held upon the same day in continuation of or preparatory to an ordinary or special meeting of the Board for which he is entitled to a fee under either of the preceding clauses:

Proviso.

Provided that the aggregate amount of fees payable to any Trustee in respect of meetings held during any month shall not exceed Rs. 200 or such sum as may be fixed by any by-law from time to time made in this behalf.

Proceedings of Board.

Provisions concerning the Board's proceedings.

18. The following provisions shall be observed with respect to the proceedings of the Board, namely:—

Vacancy not to affect proceedings.

(*1*) During any vacancy in the Board, the continuing Trustees may act as if no vacancy had occurred.

The Board to meet and arrange for transaction

(*2*) The Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings and generally

with respect to the transaction of business, as they think fit, subject to the following provisions namely :— of business as they think fit.

(*a*) an ordinary meeting shall be held once at least in every month ; There must be an ordinary

(*b*) the Chairman may, whenever he thinks fit, and shall, upon the written, request of not less than three Trustees, call a special meeting; meeting once a month, or a special meeting whenever necessary.

(*c*) no business shall be transacted at any meeting unless at least eight Trustees are present from the beginning to the end of such meeting ; Eight Trustees shall form a quorum.

(*d*) every meeting shall, if the Chairman be present, be presided over by him ; if he be absent, by such one of the Trustees present as may be chosen by the meeting ; Chairman, if present, to preside at every meeting.

(*e*) all questions shall be decided by a majority of votes of the Trustees present, the President having a second or casting vote in all cases of equality of votes ; All questions must be decided by a majority of votes

(*f*) if a poll be demanded, the names of the Trustees voting and the nature of their votes shall be recorded by the President ; Poll may be demanded.

(*g*) minutes shall be kept of the names of the Trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed at the next ensuing meeting by the President of such meeting, and shall be open to inspection by any Trustee during office hours. Minutes must be kept.

(*3*) The Board may from time to time appoint Committees consisting of the Chairman and such other Trustees as they think fit ; and may— The Board may delegate power to Committees.

(*a*) refer to such Committees for inquiry and report any subject relating to the purposes of this Act ;

(*b*) delegate to such Committees by a specific resolution in this behalf, and subject to any by-laws made under clause (*a*) of section 94 (*1*), any of their powers or duties.

Any Committee so appointed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time alter the constitution of any Committee so appointed or rescind any such appointment. The Chairman shall be the President of every such Committee. Chairman to be President of every Committee.

Committees when to meet.

(*4*) Committees may meet and adjourn as they think proper, but the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two members of a Committee, call a special meeting of such Committee.

Chairman, if present, to preside at every meeting of a Committee.

(*5*) Every Committee meeting shall, if the Chairman be present, be presided over by him; if he be absent, by such one of the Trustees present as may be chosen by the meeting.

Questions in Committee to be decided by majority of votes: two-thirds of the members to form a quorum.

(*6*) Questions at any meeting of a Committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the President of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the Committee are present from the beginning to the end thereof.

Acts of the Board, etc., not to be invalidated by informalities.

(*7*) No act of the Board, or of any Committee, or of any person acting as Trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, Committee or Trustee, or on the ground that they, or any of them, were disqualified for the office of Trustee.

Mode of executing contracts when the value is not more than Rs. 1,000.

19. (*1*) The Chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf, and every such contract or agreement shall be reported to the Board at the next ordinary meeting thereof.

When the value is more than Rs. 1,000.

(*2*) Every other contract and agreement on behalf of the Board shall require the previous approval of the Board, shall be in writing, and shall be signed by the Chairman [1] * * * *, and sealed with the common seal of the Board as hereinafter provided. No contract or agreement referred to in this sub-section, unless executed as herein provided, shall be binding on the Board.

Custody and use of common seal.

(*3*) The common seal of the Board, which shall remain in the custody of the Secretary of the Board, shall not be affixed to any contract or other instrument except in the presence of two Trustees, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence.

1 The words "and two other Trustees" were repealed by s. 2 of the City of Bombay Improvement Amendment Act, 1901 (Bom. Act 4 of 1901), *infra*, p. 1633.

The signatures of the said Trustees shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

Signature of Chairman on coupons of debentures may be impressed, etc.

[1]**19A.** Notwithstanding anything contained in the last preceding section, the signature of the Chairman may be engraved, lithographed or impressed by any mechanical process on the coupons attached to debentures issued under this Act, and such signature so engraved, lithographed or impressed shall be as valid as if the same had been subscribed in the proper handwriting of the said Chairman.

The Board may compromise claims by or against them.

20. The Board may compound or compromise for or in respect of any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money or other compensation as they shall deem sufficient.

The Chairman.

Duties of Chairman.

21. The Chairman shall—

(*1*) attend every meeting of the Board, unless prevented by sickness or other reasonable cause;

(*2*) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board; and, to the extent specified in section 92 (*1*), dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(*3*) furnish to Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

Leave of absence of Chairman.

22. (*1*) Leave of absence may be granted from time to time to the Chairman by Government.

Allowance of Chairman while absent on leave.

(*2*) The allowance (if any) to be paid to the Chairman whilst so absent on leave shall be of such amount, not exceeding the amount of the salary of the Chairman, as shall be fixed by Government: provided that if the Chairman is a Government officer, the amount of the allowance shall be such as he may be entitled to under the Civil Service Regulations.

Appointment and salary of acting Chairman.

(*3*) During any absence of the Chairman Government may appoint a person to act as Chairman, and any person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act on the person for whom he is appointed to act and shall be subject to the same liabilities,

[1] This section was inserted by s. 3 of the City of Bombay Improvement Amendment Act (Bom. Act 4 of 1901), *infra*, p. 1633.

restrictions and conditions to which the said person is liable and shall receive such monthly salary within the limit prescribed in section 16 as Government shall determine.

CHAPTER III.

DUTIES AND POWERS.

Improvement Schemes.

The Board on being satisfied by official representation of unhealthiness of district or area to make scheme for its improvement.

23. When an official representation as hereinafter mentioned is made to the Board that within certain limits in any part of the City either—

(*1*) any buildings used, or intended or likely to be used, for human habitation are unfit for human habitation, or

(*2*) the narrowness, closeness and bad arrangement, or the bad condition, of the streets and buildings, or groups of buildings, within such limits, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings within the area of such limits, or of the neighbouring buildings;

and that the evils connected with such buildings and the sanitary defects in such area cannot be effectually remedied otherwise than by an improvement scheme for the re-arrangement and reconstruction of the streets and buildings within such area or of some of such streets or buildings, the Board shall take such representation into their consideration, and if satisfied of the truth thereof, and of the sufficiency of their resources, shall pass a resolution to the effect that such area is an unhealthy area, and that an improvement scheme ought to be made in respect of such area, and after passing such resolution they shall forthwith proceed to make a scheme for the improvement of such area:

Provided that any number of such areas may be included in one improvement scheme.

Provided also that for the purposes of section 26 the Board may cause surveys to be made in areas outside the limits of the area comprised in a scheme.

Official representation to be made by the Commissioner.

24. (*1*) An official representation for the purposes of this Act shall mean a representation made to the Board by the Commissioner.

(*2*) Such representation may be made by the Commissioner of his own motion, and shall be made by the Commissioner—

(*a*) on a resolution being passed by the Corporation in that behalf;

(*b*) on the written complaint of the Municipal Executive Health Officer;

(*c*) on the written complaint signed by three or more Justices residing within the ward comprising the area in respect of which the complaint is made;

(*d*) on the written complaint signed by twelve or more persons liable to pay any property tax leviable under the Municipal Act and residing within the ward comprising the area in respect of which the complaint is made.

Particulars to be provided for in an improvement scheme.

25. The improvement scheme, which may exclude any part of the area in respect of which an official representation is made, or include any neighbouring land, if the Board are of opinion that such exclusion or inclusion is expedient,—

(*1*) shall, within the limits of the area comprised in the scheme, provide for—

(*a*) the acquisition of any land which will, in the opinion of the Board, be necessary for or affected by the execution of the scheme,

(*b*) relaying out all or any land including the construction and reconstruction of buildings and the formation and alteration of streets,

(*c*) draining and lighting streets so formed or altered;

(*2*) may, within the limits aforesaid, provide for—

(*a*) raising any land which the Board may deem expedient to raise for the better drainage of the locality,

(*b*) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area,

(*c*) the whole or any part of the sanitary arrangements required; and

(*3*) may, within and without the limits aforesaid, provide for the construction of buildings for the accommodation of the poorer and working classes, including the whole or part of such classes to be displaced in the execution of the scheme. Such accommodation shall be deemed to include shops.

Considerations which shall prevail in making the scheme.

26. In making an improvement scheme for any area, regard shall be had to the conditions and nature of neighbouring parts of the City and of the City as a whole, and to the likelihood of improvement or street schemes being required for the neighbouring and other parts of the City.

Procedure on completion of the scheme.

27. (*1*) Upon the completion of an improvement scheme the Board shall draw up a notification stating the fact of a scheme having been made, the limits of the area comprised therein and naming a place where particulars of the scheme, a map of the area comprised therein and a statement specifying

the land proposed to be acquired, may be seen at all reasonable hours; and shall—

Copy of notification of the scheme to be communicated to the President of the Corporation.

(*a*) communicate a copy of such notification to the President of the Corporation, who shall, within thirty days from the date of receipt thereof, forward to the Board, for transmission to Government as hereinafter provided, any representation which the Corporation may think fit to make with regard to the scheme;

Publication of notification.

(*b*) during three consecutive weeks publish simultaneously in the *Bombay Government Gazette* and in some one or more and the same English and some two or more and the same vernacular newspapers circulating within the City, a copy of the said notification.

Service of notices on owners of property to be acquired in executing the scheme.

(*2*) During the thirty days next following the first day on which such notification is published, the Board shall serve a notice on every person whose name appears in the Commissioner's assessment-book as primarily liable for the payment of the property taxes leviable under the Municipal Act on any land or building proposed to be acquired by the Board in executing the scheme, stating that such land or building is proposed to be acquired by the Board for the purpose of an improvement scheme, and requiring an answer stating whether the person so served dissents or not in respect of the acquisition of such land or building, and if the person dissents the reasons of such dissent, within thirty days from the date of service of the notice.

Notices how to be served.

(*3*) Such notice shall be signed by, or by the order of, the Chairman, and shall be served—

(*a*) by delivery of the same personally to the person required to be served, or, if such person is absent or cannot be found, to his agent, or, if no agent can be found, then by leaving the same on the land of building; or

(*b*) by leaving the same at the usual or last known place of abode or business of such person as aforesaid; or

(*c*) by post addressed to the usual or last known place of abode or business of such person.

The Board after publication and service of notices to forward the scheme to Government for sanction.

28. (*1*) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the scheme the Board shall, after consideration of any representation or answer received under section 27 and after inserting in the scheme such modifications as they may think fit, apply to Government for sanction to the scheme.

(*2*) The application for sanction shall, save in the case provided for in sub-section (*3*), be accompanied by— Particulars to accompany the application for sanction.

(*a*) a description with full particulars of the scheme including the reasons for any modifications inserted therein;

(*b*) complete plans and estimates of the cost of executing the scheme;

(*c*) a statement specifying the land proposed to be acquired;

(*d*) any representation received under sub-section (*1*) of section 27;

(*e*) a list of the names of the persons, if any, who in answer to the notices mentioned in sub-section (*2*) of section 27 dissented, with the reasons (if any) stated by such persons for dissent, in respect of the acquisition of their land;

(*f*) a schedule showing the rateable value, as entered in the Commissioner's assessment-book, at the date of the publication of a notification relating to the land under section 27, of all land specified in the statement under clause (*c*) and of any other land wholly or partially situated within eighty feet from either side of any street to be formed or altered in executing the scheme.

(*3*) When under any improvement scheme provision is made for the construction of dwellings for the poorer and working classes, the Board may, after complying with the provisions of section 27, forthwith submit to Government for sanction plans and estimates for the construction of such dwellings, and on receipt of such sanction the provisions of section 29 shall, with all necessary modifications, be applicable to the part of the scheme providing for the construction of such dwellings, as if such part were the scheme. Procedure when the scheme provides for the construction of dwellings for the poorer and working classes.

29. (*1*) (*a*) On receipt of the sanction of Government, the Chairman shall forward a declaration for notification under the signature of a Secretary to Government, stating the fact of such sanction and that the land proposed to be acquired by the Board for the purposes of the scheme is required for a public purpose. On receipt of sanction, declaration to be published giving particulars of land to be acquired, and on publication of such declaration the Board to proceed to execute the scheme.

(*b*) The declaration shall be published in the *Bombay Government Gazette* and shall state the limits within which the land proposed to be acquired is situate, the purpose for which it is needed, its approximate area, and the place where a plan of the land may be inspected.

(*c*) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Board shall, upon the publication of the said declaration, proceed to execute the scheme.

(*2*) (*a*) If at any time it appears to the Board that an improvement can be made in any part of the scheme, the Board may alter the scheme for the purpose of making such improvement, and shall, subject to the provisions contained in the next two clauses of this sub-section, forthwith proceed to execute the scheme as altered. The Board to have power to alter any part of the scheme.

(*b*) If the estimated net cost of executing the scheme as altered exceeds by a greater sum than Rs. 5,000 the estimated net cost of executing the scheme as sanctioned, the Board shall not, without the previous sanction of Government, proceed to execute the scheme as altered.

(*c*) If the scheme as altered involves the acquisition, otherwise than by agreement, of any land other than that specified in the schedule accompanying the scheme under section 28 (*2*) (*f*), the provisions of sections 27 and 28 and of sub-section (*1*) shall apply to the part of the scheme so altered, in the same manner as if such altered part were the scheme.

Street Schemes.

The Board to have power to make a street scheme.

30. Whenever the Board is of opinion that for the purpose of providing building sites for the expansion of the City, or of remedying the defective ventilation of any part of the City, or of creating new or increasing the existing means of communication and facilities for traffic between various parts of the City, it is expedient to form new or to alter existing streets in any part of the City, the Board may pass a resolution to that effect, and shall forthwith proceed to make a street scheme for such area as may seem expedient to the Board.

Particulars to be provided for in a street scheme.

31. The street scheme—

(*1*) shall, within the limits of the area comprised in the scheme, provide for—

(*a*) the acquisition of any land which will, in the opinion of the Board, be necessary for or affected by the execution of the scheme;

(*b*) re-laying out all or any land, including the construction and reconstruction of buildings and the formation and alteration of streets;

(*c*) the draining and lighting of streets so formed or altered;

[1](*2*) may within the limits aforesaid, provide for (*a*) raising any land vested in or to be acquired by the Board which the Board may deem expedient to raise for the better drainage of the locality; (*b*) forming open spaces for the better ventilation of the area comprised in the scheme, or of any area occupied by buildings constructed under sub-section (*3*) of this section; and

(*3*) may, within and without the limits aforesaid, provide for the construction of buildings for the accommodation of the poorer and working classes, including the whole or part of such classes to be displaced in the execution of the scheme. Such accommodation shall be deemed to include shops.

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1 Sub-section (2) was substituted by s. 4 of the City of Bombay Improvement Amendment Act, 1901 (Bom. 4 of 1901), *infra*, p. 1633.

The original sub-section ran as follows:—

"(2) may, within the limits aforesaid, provide for raising any land vested in or to be acquired by the Board which the Board may deem expedient to raise for the better drainage of the locality; and"

Procedure on the completion of a scheme.

32. Upon completion of a street scheme the provisions of sections 27, 28 and 29 shall, with all necessary modifications, be applicable to the scheme, in the same manner as if the scheme were an improvement scheme.

Reclamation Schemes.

The Board to have power to make a Reclamation scheme.

33. Whenever the Board is of opinion that it is expedient for the purposes of this Act to reclaim any area within the limits specified in Schedule E, the Board may pass a resolution that it is expedient to reclaim such area as aforesaid, and shall forthwith forward a map showing the area proposed to be reclaimed to Government for transmission to the Government of India, who shall determine, with reference to the site of any battery and the arcs of fire of the guns thereof, the limits within which no building shall be erected within such area.

Upon receipt of the orders of the Government of India the Board shall proceed to make a reclamation scheme, which shall conform with such orders, in respect of such area.

Particulars to be provided for in a reclamation scheme.

34. (*1*) The reclamation scheme shall provide for—

(*a*) enclosing and filling in such part of the foreshore as shall be necessary to reclaim the area comprised in the scheme;

(*b*) laying out all or any land reclaimed within the area, including the formation of streets;

(*c*) draining and lighting streets so formed;

(*d*) the whole or any part of the sanitary arrangements required.

(*2*) If in respect of any reclamation at Colaba any part of the area is situate to the west of any land in military occupation, particulars of the scheme shall be submitted to Government, who shall determine—

(*a*) what, if any, portion of the area to be reclaimed will be required to be taken possession of for a military purpose under the provisions of section 61 (*3*);

(*b*) with reference to the sanitary requirements of the troops, the conditions on which buildings may be erected on any part of the said area, and the scheme shall conform with such orders.

Procedure on completion of a scheme.

35. Upon the completion of a reclamation scheme the Board shall draw up a notification stating the fact of a scheme having been made, the limits of the areas comprised therein, and naming a place where particulars of the scheme (including full estimates of the cost and anticipated profits) and a map of the area comprised therein, may be seen at all reasonable hours, and shall—

Copy of notification of the scheme to be com-

(*1*) communicate a copy of such notification to the President of the Corporation, who shall, within thirty days from the date of receipt thereof, forward to the Board for transmission to Government as hereinafter provided any

municated to the President of the Corporation.

representation which the Corporation may think fit to make with regard to the scheme;

Publication of notification.

(2) during three consecutive weeks publish a copy of the said notification in *Bombay Government Gazette.*

The Board after publication to forward the scheme to Government for sanction.

36. (1) Upon compliance with the provisions of the last preceding section, the Board shall, after consideration of any representation received under the said section, and after inserting in the scheme such modifications not at variance with the orders received under sections 33 and 34 as they may think fit, apply to Government for sanction to the scheme.

(2) The application for sanction shall be accompanied by—

(a) a description with full particulars of the scheme, including the reasons for any modifications inserted therein;

(b) complete plans and estimates of the cost of executing the scheme;

(c) full estimates of the anticipated profits of the scheme;

(d) any representations received under section 35.

(3) On receipt of the sanction of Government the Board shall proceed to execute the scheme.

Government not liable for loss due to enforcement of any order issued under section 33 or 34.

37. No person shall be entitled to any compensation from, and no suit for compensation shall lie against, either the Government of India or Government in respect of any loss or damage to the interests, immediate or prospective, of any person, due to the enforcement of any order or prohibition issued under section 33 or 34.

Police Accommodation Schemes.

The Board to have power to make a Police accommodation scheme.

38. (1) When a representation is made by Government to the Board that within any part of the City accommodation is required for housing any part of the Police of the City, the Board shall take such representation into their consideration, and, if satisfied of the sufficiency of their resources and that it is otherwise expedient, shall pass a resolution to the effect that a scheme for providing such accommodation ought to be made, and shall forthwith proceed to make a Police accommodation scheme.

Particulars to be provided for in a Police accommodation scheme.

(2) The Police accommodation scheme may provide for constructing dwellings and accessory buildings (including stables for horses) for any or all classes of such Police, and for acquiring, raising and levelling any land required for the execution of the scheme.

Procedure on the com-

39. Upon completion of a Police accommodation scheme, the provisions of sections 27, 28 and 29 shall, with all necessary modifications, be applicable

to the scheme in the same manner as if the scheme were an improvement scheme. pletion of a

40. (*1*) Any building constructed under the last two preceding sections shall be leased to Government for Police purposes on a repairing lease for a term of sixty years from the date of the completion of the building, and Government shall during the period of such lease pay yearly to the Board by way of rent (to be deemed to be part of the annual expenses of the Police of the City) a sum which shall comprise— The building when complete to be leased by the Board to Government for sixty years for Police purposes.

(*a*) the interest and sinking fund charges on the capital cost of the building, such charges to be calculated at the rate applicable to the last loan raised by the Board under section 52 preceding the date of completion of the building;

(*b*) all rates and taxes payable by the Board in respect of the building and the land forming the site thereof.

(*2*) "Capital cost of the building" for the purposes of this section shall be an amount equal to— "Capital cost of the building" defined.

(*a*) the cost of the construction of the building, including preliminary expenses, and an allowance for management, supervision and interest and sinking fund charges (to be calculated in the manner aforesaid) during construction;

(*b*) the cost of the land forming the site of the building.

(*3*) "The cost of the land" for the purposes of this section shall be deemed to be,— "The cost of the land" defined.

(*a*) if and so far as the land was acquired for the purpose—the actual cost of its acquisition,

(*b*) if and so far as the land forms part of any land specified in Schedule C or D or reclaimed within the limits specified in Schedule E—its value as determined under section 51: Provided that such value shall be paid by the Board to Government or the Corporation, as the case may be, and the land shall thereupon vest in the Board for the term of the said lease, and the liability of the Board in respect of the land shall cease as if the land were resumed or taken possession of under the provisions of section 60 (*7*) or section 61 (*3*) respectively.

(*4*) On the expiration of the lease the building and the land forming the site thereof shall vest in the Corporation for the purpose of housing the City Police, and such rent only shall be charged in respect of the building and the land to the annual Police expenses as may represent the annual main- On expiration of lease the building and the site thereof to vest in the Corporation

for Police purposes.

tenance charges together with the rates and taxes payable in respect of the building and the land.

General.

Land vested in the Corporation and required by the Board for the formation and alteration of a street to be vested temporarily in the Board.

41. Whenever under any improvement or street scheme the whole or any part of an existing public street or other land vested in the Corporation is included in the site of any part of a street to be formed, altered, widened, diverted, raised, re-arranged or re-constructed by the Board, the Board shall give notice to the Commissioner that the whole or a part, as the case may be, of such existing street or other land (hereinafter called the "part required") is required by them as part of a street to be dealt with as aforesaid, and the part required shall thereupon, subject to the provisions of sub-section (2) of section 45, be vested in the Board: Provided that nothing in this section contained shall be deemed to affect the rights or powers of any Municipal authority, under Chapters IX and X respectively of the [1] Municipal Act, in or over any Municipal drain or water-work. Bom. III of 1888.

Cost of acquiring such land when to be repaid to the Corporation.

[2]**41A.** In respect of any such part required which is or forms part of land acquired by the Corporation subsequently to the 9th November 1898 under the provisions of section 298 of the Municipal Act, the Board shall pay to the Corporation the actual cost incurred by the Corporation in acquiring such land, or such portion thereof as shall bear to the whole actual cost so incurred, the same proportion that the area of the part required bears to the whole area of the land so acquired.

The Board may, in respect of land vested in the Board, exercise certain powers conferred upon Municipal authorities in regard to public and private streets.

42. The provisions of sections 289 to 329 (both inclusive) of the [1] Municipal Act shall, so far as may be consistent with the tenour of this Act, apply to streets or parts thereof which may become vested in the Board under this Act, during such periods as the same shall respectively remain so vested, and for the purposes of this Act, the several Municipal authorities referred to in any of the said sections of the said Act shall respectively mean the Board who, in respect of any streets or parts of streets so vested, may alone exercise and perform all or any of the powers and functions which by any of the said sections might have been exercised or performed by any Municipal authority either with or without the sanction, authority or approval of any other Municipal authority. The expression "Municipal officer or servant" occurring in any of the said sections of the said Act shall mean officer or servant of the Board. Bom. III of 1888.

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1 Vol. III of this Code, p. 975.

2 S. 41A was inserted by s. 5 of the City of Bombay Improvement Amendment Act, 1901 (Bom. 4 of 1901), *infra*, p. 1634.

Bom. III of 1888.

43. The provisions of section 334 of the [1] Municipal Act shall, so far as may be consistent with the tenour of this Act, apply to any streets or parts thereof which may become vested in the Board under this Act, during such periods as the same may respectively remain so vested, and, for the purposes of this Act, the expression " Commissioner " occurring in the said section of the Municipal Act shall mean the Board, who, during such periods as aforesaid, shall alone exercise and perform all or any of the powers and functions which might, under the said section of the said Act, have been exercised or performed by the Commissioner; and the expression " Municipal fund " shall mean the funds of the Board.

Powers and liability of the Board as to gas pipes in land vested in the Board.

Bom. I of 1874.

44. The provisions of sections 3, 4, 10, 11, 12, 13, 14, 15, 27, 28 and 29 of the [2] Bombay Tramways Act, 1874, shall, so far as may be consistent with the tenour of this Act, apply to public streets or parts thereof which may become vested in the Board under this Act, during such periods as the same shall respectively remain so vested, and, for the purposes of this Act, the expressions " Municipal Commissioner ", " Commissioner " and " Corporation " occurring in any of the said sections of the said Act shall mean respectively the Board, and the expressions " Executive Engineer of the said Corporation " and " Executive Engineer " shall mean respectively the Engineer of the Board.

The Board may, in respect of land vested in the Board exercise certain powers conferred upon Municipal authorities by the Bombay Tramways Act, 1874.

45. (*1*) No new street, if made for carriage traffic, shall be less than forty feet in width, nor, if made for foot traffic only, shall be less than twenty feet in width :

Minimum width of new streets.

Provided that where in an improvement or street or reclamation scheme or otherwise, wherever continuously for the whole length of a street provision is made for garden or open space on one or both sides of such street, on such terms as to preclude such space being built over, when the total space between the buildings on opposite sides of the street, including such garden or open space, is not less than forty feet, the street between such buildings need not, if made for carriage traffic, be more, and shall not be less, than twenty feet in width, and, if made for foot traffic only, need not be more, and shall not be less, than ten feet in width.

Proviso in case of garden or open spaces being reserved on one or both sides of a street.

(*2*) The Commissioner shall, on being satisfied that any street formed by the Board has been duly levelled, paved, metalled, flagged, channelled, drained and sewered in the manner provided for in the plans of any scheme sanctioned by Government and that such lamps, lamp-posts and other apparatus as are in his opinion necessary for the lighting thereof and should be provided by the Board have been so provided, declare such street to be a public street, and such street shall thereupon vest or re-vest, as the case may be, in the

Streets on completion to vest in and be maintained by the Corporation.

[1] Vol. III of this Code, p. 975.
[2] Vol. II of this Code, p. 495.

Corporation, and the Corporation shall thenceforward maintain, keep in repair, light and cleanse such street.

Open spaces reserved for ventilation to vest in and be maintained by the Corporation.

(*3*) Any open space reserved for ventilation in any part of the City, and provided by the Board as part of any scheme sanctioned under this Chapter, shall be transferred, on completion, to the Commissioner for maintenance at the expense of the Corporation, and shall thereupon vest in the Corporation: Provided that the Commissioner may, if necessary, require the Board, previous to the said transfer, to enclose, and, if necessary, provide lamps or other apparatus for lighting any such open space.

Disputes under this section to be determined by Government.

(*4*) Any dispute which arises between the Board and the Commissioner in respect of any of the provisions of this section shall be determined by Government, whose decision shall be final.

Acquisition of Land.

The Board to have power to acquire land by agreement.

46. Subject to the provisions of this Act, it shall be lawful for the Board to agree with the owners of any land or of any interest in land needed by the Board for the purposes of this Act, or with the owners of any right which may have been created by legislative enactment over any street forming part of the land so needed, for the purchase of such land or of any interest in such land, or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.

Extent to which Land Acquisition Act shall apply to acquisition of land otherwise than by agreement.

47. Notwithstanding anything contained in the [1] Land Acquisition Act, 1894 (in this and the next succeeding section referred to as "the said Act"), the said Act shall not, except to the extent set forth in Schedule A, apply to the acquisition of land under this Act, but the said Act shall, to the extent set forth in the said schedule, regulate and apply to the acquisition of land otherwise than by agreement, and shall for that purpose be deemed to form part of this chapter in the same manner as if enacted in the body hereof, subject to the provisions of this chapter and to the provisions following, namely:— I of 1894.

(*1*) A reference to any section of the said Act shall be deemed to be a reference to such section, as modified by the provisions of this chapter, and the expression "land", as used in the said Act, shall, in addition to the meaning included therein under clause (*a*) of section 3 of the said Act, be deemed, for the purposes of this Act, to include rights created by legislative enactment over any street; [2]["and

[1] General Acts, Vol. VI, p. 100.

[2] These words were substituted for the words "and clause (*b*) of section 3 of the said Act shall, for the purposes of this Act, be read as if the words 'or if he is the owner of any right created by legislative enactment over any street forming part of the land'" were added after the words "affecting the land"; by s. 2 of the City of Bombay Improvement (Amendment) Act, 1908 (Bom. Act 2 of 1908), *infra*.

clause (*b*) of section 3 of the said Act shall for the purposes of this Act, be read as if the words and parentheses '(including the Crown)' were inserted after the words 'includes all persons'; and the words 'or if he is the owner of any right created by legislative enactment over any street forming part of the land' were added after the words 'affecting the land]'''

(*2*) In the construction of sub-section (*2*) of section 4 of the said Act and the provisions of this chapter, the provisions of the said sub-section shall, for the purposes of this Act, be applicable immediately upon the passing of a resolution under section 25, 30 or 38, and the expression "Local Government" shall be deemed to include the Board, and the words "such locality" shall be deemed to mean the locality referred to in any such resolution;

(*3*) In the construction of the sections of the said Act deemed to form part of this chapter and the provisions of this chapter, the publication of a declaration under section 29, 32 or 39 shall be deemed to be the publication of a declaration under section 6 of the said Act;

(*4*) In the construction of section 50, sub-section (*2*), of the said Act and the provisions of this chapter the Board shall be deemed to be the local authority or company concerned.

A Tribunal of appeal to be appointed to perform the functions of the Court.

48. (*1*) For the purposes of this chapter a Tribunal of appeal (hereinafter called the Tribunal) shall be constituted as hereinafter mentioned to perform the functions of the Court under the said Act, and, in the construction of the said Act and the provisions of this chapter, the Tribunal shall be deemed to be the Court, and the award of the Tribunal, or, in the event of disagreement, the award of the majority of the Tribunal, shall be deemed to be the award of the Court, and shall, subject to the provisions for appeal hereinafter contained, be final, and the President of the Tribunal shall be deemed to be the Judge.

Questions of law and procedure to be decided by the President.

(*2*) The decision of all questions of law and procedure shall in every case rest solely with the President.

Constitution of the Tribunal.

(*3*) Such Tribunal shall consist of three members, that is to say, of a President and two assessors. The President and one of the assessors shall be appointed by Government by notification in the *Bombay Government Gazette*; the other assessor shall be appointed by the Corporation: Provided that any person who is a Trustee under this Act, or who, by reason of the provisions of section 14, is disqualified to be a Trustee, shall be disqualified to be a member of the Tribunal.

Selection of President.

[1] (*4*) The President shall be either—

(*a*) a member of the Judicial Branch of the Imperial or Provincial Civil Service of not less than ten years' standing, who shall have served as District Judge, or held judicial office not inferior to that of a First Class Subordinate Judge, for at least three years of that period : or

(*b*) a Barrister, Advocate or Pleader of not less than eight years' standing, who has practised as an Advocate or Pleader in the Bombay High Court.

Duration of office.

(*5*) Members of the Tribunal shall be appointed for a term of one year, and any such member shall be eligible for re-appointment.

Removal of members.

(*6*) It shall be lawful for Government, if they think fit, to remove for inability, or misbehaviour, or other good and sufficient cause, any member of the Tribunal.

Vacancies to be supplied.

(*7*) Upon the occurrence of any vacancy in the Tribunal or during the temporary absence through illness or other unavoidable cause of any member thereof, Government or the Corporation (as the case may be), whichever of them shall have appointed the member of the Tribunal whose place shall be vacated, shall appoint forthwith a fit person to be a member (either temporary or permanent) of the Tribunals in lieu of the member whose place is vacated or who is temporarily absent as aforesaid.

Remuneration of members.

(*8*) Each member of the Tribunal shall be entitled to such remuneration, either by way of monthly salary or by way of fees, or partly in one way and partly in the other, as Government may from time to time fix.

Expenses of the Tribunal to be paid by the Board.

(*9*) The remuneration mentioned in sub-section (*8*) and the cost of any special clerical or other establishments which shall be necessary shall be paid by the Board.

Enforcement of the decision of the Tribunal.

(*10*) Any award or order of the Tribunal shall be enforced by the Small Cause Court as if it had been a decree or order of that Court.

Appeal to the High

[2] (*11*) In any case in which the President may grant a certificate that the

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[1] Sub-section (*4*) was substituted by s. 6 of the City of Bombay Improvement Amendment Act, 1901 (Bom. 4 of 1901), *infra*, p. 1634.

The original sub-section was as follows :—

"(4) The President shall be selected from—

(*a*) members of the Judicial Branch of the Imperial and Provincial Service of not less than ten years' standing, who shall have served as District Judge for at least three years of that period, or who have had judicial office not inferior to that of a first class Subordinate Judge or Chief Judge of the Presidency Small Causes Court for a period of not less than three years ;

(*b*) practising Barristers, Advocates or Pleaders of the High Court of Bombay, of not less than eight years' standing.

[2] For Act confirming the clause and as to procedure applicable to appeals and the limitation of appeals thereunder, *see* the Bombay City Improvement Supplementing Act, 1904 (Act 14 of 1904), Vol. I of this Code, p. 260.

case is a fit one for appeal, there shall be an appeal to the High Court from the award or any part of the award of the Tribunal. Court from the decision of the Tribunal in certain cases.

(*12*) Subject to the sanction of Government, the President of the Tribunal shall have power— Power of President to make appointments and rules with the sanction of Government.

(*a*) to appoint such clerks and other officers or servants as may be necessary for carrying on the business of the Tribunal and to fix their salaries, which shall be paid accordingly by the Board ; and

(*b*) to make rules for the conduct of the business of the Tribunal, provided that such rules are not repugnant to the provisions of the [1]Code of Civil Procedure ; and such rules shall come into force on receiving the sanction of Government.

XIV of 1882.

49. In determining the amount of compensation to be awarded for any land or building acquired under this Act, the following further provisions shall apply :— Special provisions as to compensation.

(*1*) The Court shall take into consideration any increase to the value of any other land or building belonging to the person interested likely to accrue from the acquisition of the land or from the acquisition, alteration or demolition of the building ;

(*2*) When any addition to, or improvement of, the land or building has been made after the date of the publication under section 27, 32 or 39 of a notification relating to the land or building, such addition or improvement shall not (unless it was necessary for the maintenance of the building in a proper state of repair) be included, nor in the case of any interest acquired after the said date shall any separate estimate of the value thereof be made, so as to increase the amount of compensation to be paid for the land or building ;

(*3*) In estimating the market-value of the building at the date of the publication of a declaration relating thereto under section 29, 32 or 39, the Court shall have due regard to the nature and then condition of the property and the probable duration of the building in its existing state and to the state of repair thereof and to the provisions of sub-sections (*4*), (*5*) and (*6*) of this section ;

(*4*) When the owner of the land or building has, after the passing of this Act, and within twenty-four months preceding the date of the publication of a notification relating to the land or building under section 27, 32 or 39, made a return under section 155 of the [2]Municipal Act of the rent of the land or building, the rent of the land or building shall not in any such case, save as the Court may otherwise direct, be deemed to be greater than the

Bom. III of 1888.

1 *See* Act 14 of 1882, as modified up to 1st December, 1899.
2 Vol. III of this Code, p. 975.

rent shown in the latest return so made: Provided that where any addition to or improvement of the land or building has been made after the date of such latest return and previous to the date of the publication of a notification under section 27, 32 or 39, relating to the land or building, the Court may take into consideration any increase in the letting value of the land due to such addition or improvement;

(*5*) If in the opinion of the Court the rental of the land or building has been enhanced by reason of its being used for an illegal purpose, or being so overcrowded as to be dangerous or injurious to the health of the inmates, the rental shall not be deemed to be greater than the rental which would be obtainable if the land or building were used for legal purposes only, or were occupied by such a number of persons only as it was suitable to accommodate without risk of such overcrowding;

(*6*) If in the opinion of the Court the building is in a state of defective sanitation, or is not in reasonably good repair, the amount of compensation shall not exceed the estimated value of the building after being put into a sanitary condition, or into reasonably good repair, less the estimated expense of putting it into such condition or repair;

(*7*) If in the opinion of the Court the building being used or intended or likely to be used for human habitation is not reasonably capable of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials less the cost of demolition.

Collector to take possession after making award and transfer land to the Board.

[1]150. When the Collector has made an award under section 11 of the [2]Land Acquisition Act, 1894, as applied by this chapter, he may take possession of the land, which shall thereupon vest absolutely in His Majesty free from all encumbrances, and the Collector shall, upon payment of the cost of the acquisition, make over charge of the land to the Board, and the land shall thereupon vest in the Board subject to the Board's ability to pay any further costs which may be incurred on account of the acquisition of the land.

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1 Section 50 was substituted by s. 3 of the City of Bombay Improvement (Amendment) Act, 1908 (2 of 1908), *infra*. The substituted section is to be deemed to have been made and to have effect from the date of the commencement of this Act.

The original section was as follows:—

When the Collector has made an award under section 11 of the Land Acquisition Act, 1894, and the provisions of this Chapter, he may take possession of the land, which shall thereupon vest absolutely in Her Majesty free from all encumbrances, and the Collector shall upon payment of the cost of the acquisition, and upon the Board agreeing to pay any further costs which may be incurred on account of the acquisition of the land, transfer the land to the Board, and the land shall thereupon vest in the Board.

2 General Acts, Vol VI, p. 100.

(Chapter III.—Duties and Powers. Sec. 51. Chapter IV.—Borrowing Powers. Secs. 51-54.)

Resumption of lands from the Board.

Value of land resumed under sub-section (7) of section 60 to be determined by the Collector.

51. *(1)* Whenever any land specified in Schedule C or D, other than land in respect of which no capital debt shall have been incurred by the Board, is resumed under section 60 *(7)*, the value of the land so resumed shall be determined by the Collector, who shall take into consideration—

(*a*) the value (as shown in the schedule) of the plot of which the land forms part;

(*b*) the amount of any expenditure incurred by the Board in improving the general value of the plot;

(*c*) the relation which such land bears to the rest of the plot of which it forms part, in respect of area and frontage and other recognized considerations affecting land value.

Value of land taken possession of under sub-section (3) of section 61 to be determined by the Collector.

(2) Whenever any lands forming part of an area reclaimed within the limits specified in Schedule E is taken possession of under section 61 *(3)*, the value of the land shall be determined by the Collector, who shall take into consideration—

(*a*) the cost as defined in section 71 *(2)* of effecting the reclamation of the area;

(*b*) the relation which such land bears to the rest of the area reclaimed in respect of area and frontage and other recognized considerations affecting land value.

Provision for appeal to the Tribunal.

(3) An appeal shall lie from the determination of the Collector under this section to the Tribunal.

CHAPTER IV.

Borrowing Powers.

Power to borrow from the Secretary of State for India in Council or other persons.

52. The Board may from time to time borrow or re-borrow and take up at interest from the Secretary of State for India in Council, or, with the previous sanction of the Government of India, from any other person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred or to be incurred by them in the execution of this Act, inclusive of any debit balance which shall be chargeable to Capital under section 79.

Government to direct manner in which money shall be borrowed from other persons.

53. Whenever the sanction of the Government of India has been obtained to the raising of money by the Board from any person other than the Secretary of State for India in Council under the last preceding section, Government shall, with the previous consent of the Government of India, direct and appoint the manner in which such money shall be raised.

Interest on debenture loans to form charge prior to interest due to the Secretary of State or Corporation.

54. If such money shall be raised on debentures bearing interest, such interest shall constitute a charge on the revenue of the Board prior to the charge for interest payable to the Secretary of State for India in Council and to the Corporation under section 68.

Provision for sinking fund to repay money borrowed.

55. (*1*) The Board shall either pay off the money borrowed under the provisions of the preceding sections by equal yearly or half-yearly instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund and accumulate in the way of compound interest, by investing the same in the purchase of public securities, such sum or sums as will, with accumulations in the way of compound interest, be sufficient after payment of all expenses to pay off the moneys so borrowed within the period sanctioned.

(*2*) In respect of any sinking funds which by this Act the Board is directed or empowered to invest in public securities, and in respect of any surplus moneys which by this Act the Board is empowered to invest in like securities, it shall be lawful for the Board to reserve and set apart for the purposes of any such investment any debentures to be issued on account of any loan for which the sanction of the Government of India shall have been duly obtained under section 52, provided that the intention to so reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(*3*) The issue of any such debentures direct to and in the name of "The Trustees for the Improvement of the City of Bombay" shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(*4*) The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture issued by the Board shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.

Dates fixed for investment of sinking funds in public securities.

56. The investment every year or every half-year of any sum set apart as part of the principal of a sinking fund shall be made within fifteen days after the day on which the payment of interest is due by the Board in respect of the loan for repayment of which such sinking fund is established; and the investment of any sum received by the Board on account of interest on moneys forming part of a sinking fund already invested, shall be made within one month from the day on which such interest is received.

Period over which loans may extend.

57. Except with the previous sanction of the Government of India,—

(*1*) the period for the repayment of any loan shall not exceed sixty years and

(*2*) when money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned.

Form of securities.

58. (*1*) When money is raised by the Board on debentures, the debentures shall be in the form of Schedule B, or in such other form as the Board, with the previous consent of Government, shall from time to time determine.

(*2*) The holder of any debenture in the form of Schedule B, or in any form duly authorized under this section, may obtain in exchange therefor upon such terms as the Board shall from time to time determine, a debenture in any other form so authorized.

(*3*) Every debenture issued by the Board shall be transferable,—

(*a*) if it is in the form of Schedule B, by endorsement, and

(*b*) if it is in any other form, in such manner as shall be therein expressed.

(*4*) The right to sue in respect of the moneys secured by debentures issued under this section shall vest in the respective holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

The Board to have power to take advances from Banks to the extent of any loan sanctioned by Government and to grant mortgages.

59. Notwithstanding anything contained in section 52, the Board may take from any bank credit on a cash account to be opened and kept with such Bank in the name of the Board to the extent of any loan sanctioned under section 52, and may, with the sanction of Government, grant mortgages, subject to the provisions of this Act, of lands and property vested or vesting in or belonging to the Board, or any part thereof, in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with the interest thereon.

CHAPTER V.

PROPERTY AND LIABILITIES.

Transfer of Property to the Board.

Particulars of lands vested in the Board.

60. (*1*) Immediately upon the date, which shall be notified under section 10, there shall vest in the Board for the purposes of this Act and subject to the provisions hereinafter contained—

All the estate, right, title and interest of Her Majesty and of the Corporation respectively in and to the several lands respectively specified in Schedule C and Schedule D and shown on the deposited plans, subject, in the case of the lands specified as plot 12 in Schedule C, to the right therein reserved of temporary occupation by Government and, in the case of the lands specified as plot 18 in the said Schedule, to the right of Government therein reserved to remove the materials of certain buildings.

The Flats.

(2) Upon the lands in Schedule C, referred to as the *Flats*, the Board shall not at any time erect, or allow to be erected, any building of a permanent

character, but the Board may at any time erect, or cause or allow to be erected, on the said lands any temporary structures, which may be necessary for the purpose of storing goods or for any purpose other than of human habitation.

Any portion of the *Flats* which may at any time be required by the Corporation for the purposes of any scheme sanctioned by the Corporation for the drainage of the City or for reducing the level of the subsoil water in the City, shall be surrendered to the Corporation free of charge and shall thereupon vest in the Corporation, but the Board shall not be liable for the cost of any works for the drainage of any part of the *Flats*, which may be undertaken as part of or in connection with any such scheme.

The Kennedy Sea Face

(*3*) In respect of the lands in Schedule C, referred to as the *Kennedy Sea Face*, the Board shall, for a period of thirty years from the date which shall be notified under section 10, or for such further period during which Government may not have exercised the power of resumption as hereinafter provided, have power at any time—

(*a*) to permanently appropriate the whole or any part of the said lands as an open space, or

(*b*) with the express sanction of Government, to be previously obtained, to appropriate the whole or any part of the said lands to building purposes.

Any part of the said lands, which upon the expiration of the said period of thirty years shall not have been permanently appropriated as an open space or the appropriation whereof shall not have been sanctioned as in the last clause mentioned, may be at any time resumed by Government.

Any part of the said lands may, so long as it remains unappropriated to building purposes, be occupied by Government for any temporary purpose subject to the provisions of any by-laws made by the Board under section 94 (*1*) (*c*).

The Cooperage Plot, the Secretariat Plot and the Marine Lines Estate.

(*4*) With respect to the lands respectively referred to in Schedule C as the *Cooperage Plot* [1] *, the *Secretariat Plot* [2][and the Marine Lines Estate], the Board shall have power at any time, with the sanction of Government to be previously obtained, to appropriate the whole or any part of the said lands to either of the purposes mentioned in clauses (*a*) and (*b*) of the last preceding sub-section.

Any part of the said lands the appropriation of which shall not have been

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1 The word " and " was omitted by s. 7 of the City of Bombay Improvement Amendment Act, 1901 (Bom. Act 4 of 1901), *infra*, p. 1634.

2 These words were inserted by the City of Bombay Improvement Amendment Act, 1901 (Bom. Act 4 of 1901), s. 7, *infra*, p. 1634.

sanctioned in manner aforesaid may at any time be resumed by Government for any Government purpose ; and

any part of the said lands which shall not have been appropriated to building purposes may at any time be occupied by Government for any temporary purpose subject to the provisions of any by-laws made by the Board under section 94 (*1*) (*c*).

The Board to maintain and manage lands referred to in sub-sections (2), (3) and (4).

(*5*) The Board shall be responsible for the maintenance and management of any area forming part of the lands referred to in sub-sections (*2*), (*3*) and (*4*), which may from time to time remain unappropriated or unresumed as aforesaid, and shall do, or cause to be done, all acts necessary for the preservation of all existing rights in and over such area and subject to the provisions of this Act ; and the Board shall have power to let the whole or any part of such area for any temporary purpose on sufferance lease, at such nominal or other rent as the Board may approve.

Period for which lands shall remain vested in the Board.

(*6*) The property vested in the Board under this section shall, subject to the provisions of this section, remain so vested until such time as the whole of the lands specified in Schedules C and D, except those appropriated to the purpose mentioned in clause (*a*) of sub-section (*3*), shall be let on a building lease by the Board, or as to any part thereof until such time as such part shall be so let, and thereafter as to the whole, except as aforesaid, or any such part, for a further period, which shall be determined,—

(*a*) where the lease granted by the Board is a non-renewable lease, upon the expiration of such lease ;

(*b*) where the lease granted by the Board contains a clause for the renewal of the lease —

(i) when a renewed lease shall have been entered into, upon the expiration of such renewed lease ;

(ii) when a renewed lease shall not have been entered into, upon the expiration of a period equivalent to the maximum term for which the lease granted was expressed to be renewable :

Proviso as to aggregate term for which such lands may be leased by the Board.

Provided that no unrenewable lease shall be granted for a period of more than 99 years, and that in no case shall the aggregate duration of the term of a renewable lease, and of the term for which such lease shall be renewed or be expressed to be renewable, exceed 99 years.

Power of Government and the Corporation to resume lands required for

(*7*) Any land, other than land leased or agreed to be leased by the Board specified in Schedule C which shall be required by Government for a public purpose, or specified in Schedule D which shall be required by the Corporation for a public purpose, may at any time, after giving six months' notice to the Board, be resumed by Government or by the Corporation, as the case may be,

a public purpose.

and the capital debt of the Board shall be reduced by an amount equal to the value of the land as determined under section 51 (*1*).

Particulars of reclamation rights vested in the Board.

61. (*1*) Immediately upon the date which shall be notified under section 10, there shall vest in the Board for the purposes of this Act and subject to the provisions hereinafter contained, the right to reclaim the bed of the sea, the property of Her Majesty, within the limits specified in Schedule E, and all the estate, right, title, and interest of Her Majesty to and in such lands as may be reclaimed by the Board within the said limits until such time as the whole of the lands reclaimed, or as to any part thereof, until such time as such part shall be let on a building lease by the Board and thereafter as to the whole or any such part for a further period which shall be determined in the manner described in section 60 (*6*) :

Provision in event of the Board failing to commence reclamation.

(*2*) If on the expiration of a period of twenty years from the date which shall be notified under section 10, or such further period as the Government of India may determine, the Board shall have failed to commence the reclamation of any area within the limits specified as aforesaid, the right and property vesting in the Board in respect of such area under this section shall forthwith be divested and shall revest absolutely in Her Majesty.

Power of Government to take possession of any reclaimed land required for a public purpose.

(*3*) Any land reclaimed, other than land leased or agreed to be leased by the Board, which shall be required by Government for a public purpose, may at any time, after giving six months' notice to the Board, be taken possession of by, and shall thereupon forthwith vest in, Government, and Government shall pay to the Board an amount equal to the value of the land as determined under section 51 (*2*), and the liability (if any) of the Board to Government under section 70 in respect of the land shall be remitted.

Vesting of property in Her Majesty and the Corporation respectively on the termination of leases granted by the Board.

62. Upon the determination of the further period mentioned in sections 60 (*6*) and 61 (*1*), respectively, the property vested in the Board under the said sections in any part of the lands specified in Schedule C, except those mentioned in section 60 (*2*), and appropriated for the purpose mentioned in clause (*a*) of sub-section (*3*) of the same section, and of the lands specified in Schedule D, and of the lands reclaimed within the limits specified in Schedule E, shall, as to the part thereof in respect of which such further period shall have determined, be forthwith divested and such part of such lands shall vest or revest absolutely in Her Majesty or in the Corporation, as the case may be, and in every case the liability in respect of the capital debt due to the Secretary of State for India in Council of the Corporation under section 67 or the liability of the Board to the Secretary of State for India in Council under section 70, as the case may be, shall be reduced by an amount calculated in such a way that upon the divesting as aforesaid of the whole of the lands specified in Schedule C except as aforesaid, or in Schedule D or reclaimed within the areas specified in Schedule E, the aforesaid liability of the Board in respect of such lands respectively shall be wholly extinguished.

General Powers as to Property.

Power to the Board to acquire and hold property.

63. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the City, and shall also, subject to the provisions of this Act, have power—

Power to lease.

(*1*) to let on hire, or lease, any moveable or immoveable property which may have become vested in or acquired by them;

Power to sell.

(*2*) to sell and otherwise convey any moveable or immoveable property which may have become vested in or acquired by them other than the lands specified in Schedules C and D and any lands reclaimed within the limits specified in Schedule E.

Application of the sale-proceeds of lands or buildings vested in the Board.

64. The proceeds of the sale of any portion of the lands or buildings vested or vesting in the Board under this Act shall be applied either to meet current capital expenditure, or in liquidation of the principal sum of any debt contracted by the Board under section 52, if the same or any portion of the same is at the time payable, or by way of addition to the amounts payable in respect of sinking funds under section 55.

Power to apply certain lands vested in the Board to the purposes of any scheme under this Act.

65. The Board shall have power, subject to the provisions of section 60, to apply any of the lands specified in Schedules C and D or reclaimed within the limits specified in Schedule E for the purposes of any scheme under this Act.

Adjustment of value of lands so applied.

66. (*1*) Where any part of the land specified in Schedule C or in Schedule D shall have been appropriated by the Board in forming a street, the capital debt due by the Board to the Secretary of State for India in Council or to the Corporation respectively, shall be reduced by an amount equivalent to its value to be determined by the Collector, regard being had to the value, as shown in Schedule C or Schedule D, respectively, of the plot of which the land forms part.

Provision for appeal to the Tribunal.

(*2*) An appeal shall lie from the determination of the Collector under this section to the Tribunal.

Liabilities.

Particulars of capital debts due by the Board to the Secretary of State and Corporation.

67. The capital debts due by the Board include—

(*1*) to the Secretary of State for India in Council—

(*a*) the amounts specified in Schedule C, subject, however, to any reduction of capital debt made under sub-section (*7*) of section 60 or under section 66;

(*b*) the value of any land referred to in sub-sections (*3*) and (*4*) of section 60 which may have been appropriated as an open space;

(*c*) the value of any land referred to in sub sections (*3*) and (*4*) of section 60 which may have been appropriated to building purposes:

The value of the land (if any) to be taken into account under clauses (*b*) and (*c*) shall be determined by the Collector, regard being had to the value in the last column of Schedule C expressed to be applicable, of the whole of the plot of which the land appropriated forms part:

Provision for appeal to the Tribunal.

An appeal shall lie from the determination of the Collector under this section to the Tribunal:

(*2*) to the Corporation—

the amount specified in Schedule D, subject, however, to any reduction of capital debt made under sub-section (*7*) of section 60 or section 66, and exclusive of the value of any land revesting in the Corporation under sub-section (*3*) of section 45.

Particulars of the interest payable by the Board.

68. (*1*) On the amounts referred to in sections 67 (*1*) (*a*) and 67 (*2*), interest shall begin to accrue on (but not before) the 1st day of April, 1908, at the rate of 3 per centum per annum, and the Board shall pay to the Secretary of State for India in Council and to the Corporation, respectively, on the 1st day of April, 1909 and on every succeeding 1st day of April, such interest as aforesaid.

Provided that—

(i) the Government of India or the Corporation respectively may, if they think fit, defer the date for the commencement of the accrual of interest payable by the Board under this section in respect of any portion of the lands specified in Schedule C or in Schedule D in respect of which the Board shall not, on 1st April, 1908, have entered into any building lease or agreement for such lease, until such date (to be not later than the date of any such lease or agreement for such lease entered into by the Board in respect of such portion) as Government or the Corporation, respectively, may determine;

(ii) save as provided in section 79 (*3*) (*b*) (ii) no interest shall be chargeable upon the value (to be determined in the manner laid down in section 66 for determining the value of land appropriated to forming streets) of any land which shall have been appropriated as an open space under section 65 in execution of any scheme;

(iii) upon any reduction being made in the capital debt due to the Secretary of State for India in Council, or to the Corporation, as the case may be, the interest payable by the Board under this section shall be reduced in proportion to such reduction of capital debt as from the date thereof.

(*2*) On the amount of the value referred to in section 67 (*1*) (*b*) no interest save as provided in section 79 (*3*) (*b*) (ii) shall be payable.

(*3*) On the amount of the value referred to in section 67 (*1*) (*c*) the Board shall pay to the Secretary of State for India in Council interest at the rate of

3 per centum per annum from such date not being less than ten years subsequent to the date of sanction to the appropriation as Government shall determine.

Capital debt due to Secretary of State to include certain expenditure incurred by Government and the preliminary expenses of the Act.

69. (*1*) The capital debt due to the Secretary of State for India in Council includes such expenditure as may have been incurred by the Secretary of State for India from the 1st August, 1896, till the date which shall be notified under section 10 in laying out the land in Schedule C referred to as the Chaupati Estate, or in laying water pipes for protection against fire on the land in the said schedule referred to as the Cotton Green Plot, and such preliminary expenditure as may, with the sanction of Government, have been incurred for the purposes of this Act previous to the date which shall be notified as aforesaid.

(*2*) On account of the aforesaid expenditure interest shall begin to accrue on (but not before) the date which shall be notified under section 10, at the rate of 3½ per centum per annum, and the Board shall repay the aforesaid sums together with such interest as aforesaid, so soon as the Board shall have raised a loan for the purposes of this Act as hereinbefore provided.

The Board to have free enjoyment of rents and profits from reclaimed areas for first twenty years and thereafter pay interest on market-value minus the cost of reclamation.

70. (*1*) For twenty years from the date of the first lease of any portion of the area comprised in any reclamation scheme, the Board shall have the free enjoyment of all rents and profits derivable from such area, exclusive of rates on goods landed on or shipped from the foreshore.

(*2*) Thereafter the Board shall pay annually on the 1st April to the Secretary of State for India in Council three per centum on the amount determined by deducting from the market-value of the reclaimed areas the cost of effecting their reclamation.

Definition of term "market-value" and "cost of reclamation" for purposes of last preceding section.

71. For the purposes of the last preceding section—

(*1*) "market-value" shall be deemed to mean the market-value, as determined by the Collector at the time the first payment for interest falls due as the fair freehold value for building purposes of the areas reclaimed: provided that areas occupied by roads, wharves and rides, and any area along the sea front the reservation of which as an open space is necessary for protective purposes, and any land which may have been taken possession of by Government under section 61 (*3*) shall be excluded in determining such value: an appeal shall lie from the determation of the Collector under this sub-section to the Tribunal;

(*2*) "The cost of effecting their reclamation" shall be deemed to mean the total cost of executing the schemes in which the areas are comprised, including the cost of preliminary expenses and an allowance

for supervision and interest and sinking fund charges during construction, which shall be calculated up to the date of completion of each scheme.

CHAPTER VI.

REVENUE AND EXPENDITURE.

Contribution from Municipal Fund.

Amount of the payment to be made by the Commissioner to the Board on the first day of April.

72. (*1*) The Commissioner shall pay from the Municipal Fund to the Board on the 1st day of April, 1900, and every succeeding 1st day of April a lump sum not exceeding 2 per centum on the total rateable value of all buildings and lands in the City exclusive of buildings referred to in section 143 (*1*) (*a*) of the [1]Municipal Act. Bom. III of 1888.

(*2*) For the purposes of this section the rateable value of the buildings and lands in the city vesting in the Secretary of State for India in Council and those vesting in the Trustees of the Port of Bombay shall be eight-tenths and nine-tenths respectively of the rateable value thereof as fixed under the respective provisions of sections 144 and 145 of the [1]Municipal Act. Bom. III of 1888.

Definition of terms used in this section

73. (*1*) For the purposes of this section—

"The property taxes."

(*a*) "the property taxes" shall be deemed to be the property taxes leviable under section 140 of the [1]Municipal Act, exclusive of the water tax and the supplementary general tax for fire brigade purposes and exclusive of the rate determining the amount of the lump sum payable under the last preceding section; Bom. III of 1888.

"The areas"

(*b*) "the areas" shall be deemed to include—

(i) areas specified in Schedules C and D;

(ii) areas at any time acquired by the Board under an improvement or street scheme, or which are situate wholly or partially within the limits described in the latter part of section 28 (2) (*f*);

(iii) areas reclaimed by the Board under a reclamation scheme:

"Enhancement of rateable value."

(*c*) "enhancement of rateable value" shall be deemed to be the rateable value of the buildings and lands from time to time comprised in the areas, *less*—

(i) in the case of buildings and lands which were comprised in areas referred to in sub-clause (*b*) (i) at the date of the passing of this Act, their rateable value at such date;

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[1] Vol. III of this Code, p. 975.

(ii) in the case of buildings and lands which were comprised in areas referred to in sub-clauses (*b*) (ii) and (*b*) (iii) at the date of publication of a notification under section 27, 32 or 35, relating to such buildings or lands, their rateable value at such last-mentioned date ;

(*d*) "diminution of rateable value" shall be deemed to be the converse of "enhancement of rateable value" as above defined. "Diminution of rateable value."

(2) The Board shall, so soon as may be after the 1st day of April, 1900, and every succeeding 1st day of April, cause to be prepared and furnished to the Commissioner a statement showing— Determination of the amount of the payments to be made by the Commissioner to the Board or by the Board to the Commissioner, as the case may be.

(*a*) to the credit of the Board—

such increase, if any, in the amount of the property taxes from time to time leviable upon buildings and lands comprised in the areas as may be due to enhancement in rateable value :

(*b*) to the debit of the Board—

(i) such decrease, if any, in the amount of the property taxes from time to time leviable upon buildings and lands comprised in the areas as may be due to diminution of rateable value : Provided that there shall be no debt on this account until after the expiration of the official year ending the 31st day of March, 1904 ;

(ii) the cost of collecting the receipts referred to in this section, to be calculated according to the actual percentage cost of collecting the property taxes of the City during the said year ;

(iii) the cost of maintaining, watering and cleansing streets vested in the Corporation under the provisions of section 45, such cost to be determined by applying to the area of such streets the rate shown in the Municipal accounts of the said year as the average rate of the cost of maintaining, lighting, watering and cleansing public streets in the City, *less* any rents received by the Corporation from the Tramway Company in respect of such streets ;

(iv) the cost of maintaining and cleansing drains and drainage works and public latrines, urinals and similar conveniences and of performing the other duties of the Corporation referred to in clauses (*c*) and (*p*) of section 61 of the [1] Municipal Act, in respect of the buildings and lands comprised in the

Bom. III of 1888.

[1] Vol. III of this Code, p. 975.

areas, such cost not to exceed on the one hand the actual cost incurred by the Corporation in performing such duties, or on the other hand such portion of the property taxes credited to the Board under sub-section (*2*) (*a*) as may be leviable under section 140 (*b*) of the [1] Municipal Act. Bom. III of 1888.

Adjustment of difference between credit and debits.

(*3*) The difference between the credit and the debits shown in the statement referred to in the last preceding sub-section shall be adjusted by a payment on the 1st of December of each year by the Commissioner to the Board or by the Board to the Commissioner, as the case may be, and any dispute between the Board and the Commissioner as to the matters dealt with in that sub-section shall be determined by the Tribunal.

Payments by Government.

Government to pay to the Board the profits from certain lands realised subsequently to August, 1897.

74. Government shall pay to the Board, for a period of 99 years from the date which shall be notified under section 10, all rents and profits derived by Government from the lands specified or referred to in Schedule F subsequent to the 31st August, 1897.

Division of Accounts.

Cost of management for certain period to be charged to Capital after apportioned between Capital and Revenue.

75. (*1*) During the period of fifteen years from the date which shall be notified under section 10, or during such extended period as the Government of India may approve, the cost of management, including the salaries and allowances of the Chairman, Acting Chairman, Trustees and scheduled staff, and the expenses mentioned in section 48 (*9*), and all incidental expenses, shall be charged to capital.

Thereafter such charges shall be apportioned between Capital and Revenue in such proportion as the Board, subject to the approval of Government shall determine.

Capital account to show expenditure on each scheme and on the improvement of lands specified in Schedule C and in Schedule D and

(*2*) The Capital account shall show the total expenditure (including a proportionate charge for the cost of management) incurred by the Board on each scheme separately, and shall also distinguish between the expenditure incurred on—

(*a*) the improvement of lands vested in the Board and specified in Schedule C;

(*b*) the improvement of lands vested in the Board and specified in Schedule D;

[1] Vol. III of this Code, p. 975.

(*c*) the reclamation of any areas situate within the limits specified in Schedule E. on reclamations separately.

76. All receipts by the Board, including the sums received under sections 72, 73 and 74, and the rents and all other proceeds other than sale-proceeds of lands or buildings vested or vesting in the Board under this Act, shall be carried to the credit of the General account. All receipts by the Board to be credited to the General account.

77. (*1*) The moneys credited to the General account shall be held by the Board in trust and, except as hereinafter provided, shall be applied by them in payment of the following charges (namely) — Charges to which moneys credited to the General account shall be applied.

(*a*) all payments for interest and sinking fund charges due under sections 52 to 56 (both inclusive) and all payments for interest charges due under sections 68 and 70;

(*b*) the cost, if any, of maintaining a separate establishment for the collection of the rents and other proceeds of lands vested or vesting in the Board under this Act;

(*c*) the cost of petty and other establishments, not being part of the scheduled staff, necessary for the supervision of properties or other revenue purposes,

(*d*) the amount of the cost of management apportioned to Revenue by the Board as provided by section 75; and

(*e*) all payments made by the Board in respect of rates and taxes levied under the [1] Municipal Act upon lands and buildings vested in the Board.

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(*2*) The Board shall have power to advance any sums standing to the credit of the General account to meet current Capital expenditure, and the amount of any sums so advanced shall be adjusted in the accounts of the year in which such sums are advanced. Power to advance sums standing to the credit of the General account to meet current capital expenditure.

78. The General account shall distinguish between all items included in the General account according as such items are in respect of— The General account to distinguish between items in respect of lands specified in Schedule C and in Schedule D and reclamations.

(*1*) lands vested in the Board and specified in Schedule C;

(*2*) lands vested in the Board and specified in Schedule D;

(*3*) the reclamation of any areas situate within the limits specified in Schedule E;

(*4*) other lands and buildings vesting in the Board.

Disposal of balances.

79. (*1*) Subject to the proviso hereinafter appearing, any credit balance Credit

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balances to be applied to meet current capital expenditure or to the reduction of debt on account of loans.

which the General account shall disclose at the end of any year shall be applied in the manner provided under section 64 for the application of the proceeds of sales of land vested or vesting in the Board under this Act.

Debit balances to be charged to Capital.

(*2*) Any debit balance which the General account shall disclose at the end of any year shall be debited to Capital and met by the amount of such debit balance being included in the next loan to be raised under the provisions of sections 52 to 54 (both inclusive), provided that the aggregate of the amounts which may under this section be debited to Capital shall not exceed 15 per centum on the aggregate capital debt of the Board.

Proviso as to the division of profits after the tenth year.

(*3*) Provided that all such debit and credit balances shall be entered in a separate account, and whenever and as often as subsequent to the completion of the tenth official year after the date which shall be notified under section 10, such account made up to the end of the previous official year shall disclose a net credit balance, such net credit balance shall be applied as follows :—

(*a*) if it does not exceed the aggregate amount paid by the Commissioner to the Board during that year under sections 72 and 73, such balance shall be paid to the Corporation ;

(*b*) if it exceed the aggregate amount paid by the Commissioner to the Board as aforesaid, such balance shall be applied—

(*i*) firstly, in payment to the Corporation of a sum equivalent to the aggregate amount paid by the Commissioner to the Board as aforesaid ;

(*ii*) secondly, in or towards payment to the Secretary of State for India in Council of a sum which, if paid annually and invested at 3 per centum, would in 60 years from the date to the first of such payments liquidate the capital debt due by the Board on account of the value, as determined under section 67 and proviso (*ii*) to sub-section (*1*) of section 68, of any land specified in Schedule C, which may have been appropriated as an open space ;

(*iii*) thirdly, as profits to Government and the Corporation in equal shares. Provided, however, that the sum payable to Government under this sub-clause shall not, in any case

exceed half the total net profits from rents realised by the Board during that year, in respect of the lands vested in the Board and specified in Schedule C and the reclamation of any areas situate within the limits specified in Schedule E, and where Government are under this proviso to receive less than half the amount of the said profits, the whole of the balance of such profits shall be paid to the Corporation.

Guarantee for fulfilment of Liabilities.

Procedure in event of default being made by the Board in payment of interest or investment of sinking fund charges.

80. In the event of any default being made by the Board in any payment of interest due by the Board under sections 52 and 54, or in any payment due by the Board under section 67 to the Secretary of State for India in Council or to the Corporation respectively, or in the event of the Board failing to pay or to set aside and invest any sum as required under section 55, the Accountant General of Bombay, or other officer for the time being performing the duties of the office of the said Accountant General, shall make such payment, or set aside and invest such sum as may be required to be paid or to be set aside and invested as aforesaid, and the Commissioner shall forthwith pay from the Municipal Fund to the said Accountant General the amount of such payment made or the sum so set aside and invested by the said Accountant General as aforesaid. and thereupon the Corporation may levy any such special tax as may be approved by Government in this behalf and as may be sufficient to repay to the Municipal Fund the amount withdrawn by the Commissioner as aforesaid.

Such special tax shall be in addition to the taxes from time to time leviable under the [1]Municipal Act.

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Procedure in event of Commissioner failing to make payment as required by last preceding section.

81. (*1*) If the Commissioner fails to make payment as required in section 72, 73 or the last preceding section, Government may attach the Municipal Fund or any tax leviable by the Corporation, and thereupon the provisions of sub-sections (*2*) and (*3*) of section 99 of the [1]Municipal Act shall, with all necessary modifications, be deemed to apply to such attachment, and Government may further require the Corporation to levy a special tax as provided in the last preceding section.

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(*2*) Any moneys paid by the Commissioner under the last preceding section or payable under the said section and levied under this section shall constitute a charge upon the property of the Board prior to any division of profits.

Govern-ment to

82. In the event of the Board making any default in payment, or failing

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to set aside and reinvest as aforesaid as contemplated in section 80, Government may attach the rents and other income of the Board, and thereupon the provisions of sub-sections (*2*) and (*3*) of section 99 of the [1]Municipal Act shall, with all necessary modifications, be deemed to apply to such attachment. Bom. III of 1888.

have power to attach revenues of the Board in the event of default in payment of liabilities.

Annual Estimates

Chairman to frame an annual estimate of income and expenditure.

83. (*1*) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing, in such detail and form as the Board shall from time to time direct.

(*2*) Such estimate shall make provision for the due fulfilment of all the liabilities of the Board and for the efficient administration of this Act and shall be completed and printed, and a copy thereof sent by post, or otherwise, to each Trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

The Board to sanction or amend such estimates.

84. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit.

Estimates to be submitted to Government for sanction.

85. The estimate, as sanctioned by the Board, shall be submitted to Government, who may, if they think fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same and shall re-submit the estimate so amended to Government. A copy of the estimate shall be sent to the President of the Corporation.

Transitory provision for submission and treatment of first estimates after date of constitution of the Board.

86. A special meeting of the Board shall be held so soon after the date which shall be notified under section 10, as may be expedient, and the Chairman shall at such special meeting lay before the Board an estimate for such part of the official year as may at the date aforesaid remain unexpired, and such estimate shall thereupon be dealt with in the manner prescribed in the three last preceding sections.

Supplementary estimates may be prepared and sub-

87. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to Government and a copy shall

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be sent to the President of the Corporation in the same manner as if it were an original annual estimate. mitted when necessary.

88. (*1*) Save in cases of pressing emergency no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government, or is included in the amount payable by the Board under a decree of the High Court of Bombay or an award of the Tribunal. No sum exceeding Rs. 5,000 to be spent unless included in some estimate save in cases of pressing emergency or to meet Court decrees.

(*2*) If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

Audit of Accounts.

89. (*1*) The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government. Accounts to be audited and examined by Government auditors twice in every year.

(*2*) For the purposes of such audit and examination, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same. Auditors may require production of documents.

(*3*) The auditors shall be paid by the Board such remuneration as Government shall determine, the amount being debited to the General account; and within fourteen days after the audit and examination shall have been completed, the auditors shall forward their report upon the accounts to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette*. A copy of the Auditors' report and of the abstract of the accounts shall be sent to the President of the Corporation. Their remuneration to be fixed by Government. Their report together with an abstract of the accounts to be published in the *Government Gazette*.

CHAPTER VII.

Of the Officers and Servants of the Board.

Strength of Staff.

90. The Board shall from time to time prepare and sanction a schedule of Schedule

of the officers and servants and their pay and allowances to be sanctioned by the Board.

the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board sanctions for each such officer or servant:

Certain classes not to be deemed officers and servants except for certain purposes.

Provided always that artisans, porters and labourers, and muccadums of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section or of the next succeeding section (except sub-sections (*5*), (*6*) and (*7*) thereof) or section 92.

The Board to frame regulations for:—

91. The Board shall from time to time frame regulations—

Regulating grant of leave.

(*1*) for regulating the grant of leave to the officers and servants of the Board;

Authorizing payment of leave allowances.

(*2*) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

Determining amount of acting allowances.

(*3*) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

Regulating period of service.

(*4*) for regulating the period of service of all such officers and servants;

Determining condition of grant of allowances.

(*5*) for determining the conditions under which such officers and servants, or any of them, shall on retirement receive gratuities or compassionate allowances, and the amount of such gratuities or compassionate allowances:

Provided that it shall be in the discretion of the Board to determine whether all of such officers and servants, or any, and, if so, which of them, shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid;

Authorizing contributions to Provident Fund.

(*6*) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act, or to such Provident Fund, if any, as may be established by the Board for the benefit of such officers and servants;

Determining conditions of

(*7*) for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any such officers and servants

injured, or to the surviving relatives of any such officers and servants killed, in the execution of their duty. grant of wound pensions or compassionate allowances.

Powers of Appointment, etc.

92. (*1*) Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 90, the power of appointing, promoting, suspending, dismissing, fining, reducing, or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board. Appointments, etc., by whom to be made.

(*2*) The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

93. (*1*) Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary or Engineer, or Chief Accountant of the Board, be subject to the previous sanction of Government. Orders affecting pay, etc., of certain officer to be subject to the sanction of Government.

(*2*) In this section the word "Engineer" means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board. "Engineer" defined.

CHAPTER VIII.

By-Laws.

94. (*1*) The Board may from time to time make by-laws— The Board empowered to make by-laws.

(*a*) for regulating the delegation of the powers and duties of the Board to committees;

(*b*) for the guidance of persons employed by them under this Act;

(*c*) for the [1] management and use of the lands vested in the Board under section 60 (*2*), (*3*) and (*4*);

(*d*) for fixing the maximum amount of fees payable to any Trustee under section 17;

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[1] For by-laws issued under ss. 94 (*c*) and 95, *see* Bombay Government Gazette, 1900, Pt. I, p. 2466.

(*e*) for the management, use and regulation of dwellings constructed for the poorer or working classes under any scheme ;

(*f*) generally for carrying out the purposes of this Act.

(*2*) The Board may also from time to time vary, alter or revoke any such by-laws to be made by them.

Approval and publication of by-laws.

95. (*1*) No by-law or alteration or revocation of a by-law shall have effect until the same shall have been approved by Government, and such approval shall have been [1]published in the *Bombay Government Gazette* ; and no by-law or alteration or revocation of a by-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

(*2*) It shall be lawful for Government at any time by notification in the said Gazette to cancel any by-law or regulation made and published under the provisions of this and of the last two preceding sections.

Penalties for infringement of by-laws.

96. The Board may, in the by-laws made under section 94, prescribe such penalties as they shall deem fit for the infringement of the same : Provided that no penalty for any one infringement of a by-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

By-laws to be exhibited.

97. The Board shall cause the said by-laws to be printed in the English, Marathi and Gujarati languages, and to be hung up at convenient places.

CHAPTER IX.

PENALTIES.

For being interested in contracts with the Board.

98. Any person who being a Trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the [2]Indian Penal Code : XLV of 1860.

Provided that nothing in this section shall apply to a person who is declared not to be disqualified or to be deemed to have a share or interest in any contract or employment by sub-section (*2*) of section 14.

For obtaining illegal gratification.

99. Any person employed under this Act, not being a public servant within the meaning of section 21 of the [2]Indian Penal Code who shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remunera- XLV of 1860.

1 For by-laws issued under ss. 94 (*c*) and 95, *see* Bombay Government Gazette, 1900, Pt. I, p. 2466.

2 *See* Act 45 of 1860, as modified up to 1st April, 1903.

tion, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person, with the Board or with any public servant as such, or with Government, shall be liable to the same
XLV of 1860. punishment as is provided by the [1]Indian Penal Code in the case of the like offence committed by a public servant.

For refusing or neglecting to appear before an auditor of accounts, etc.

100. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 89 (*2*), shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

Cognizance of offences against this Act.

101. All offences against this Act or against any by-law made under section 94 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender shall be paid to the Board.

CHAPTER X.

MISCELLANEOUS.

Provision when day appointed for any purpose is a Sunday or public holiday.

102. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to be done on such day shall be done on the day next after such Sunday or public holiday.

Measurement of distances.

103. The distances mentioned in this Act shall be measured in a straight line on a horizontal plane.

Limitation of suits.

104. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

SCHEDULE A.

(SEE SECTION 47.)

I of 1894. *Portions of the [2]Land Acquisition Act*, 1894, *regulating the acquisition of lands under this Act.*

PART I.—Preliminary, except clauses (*d*), (*e*) and (*f*) of section 3.

[1] *See* Act 45 of 1860, as modified up to 1st April, 1903.
[2] General Acts, Vol. VI.

(*Schedule B.*)

PART II.—Acquisition, except sub-section (*1*) of section 4, section 6, and sub-section (*2*) of section 17.

PART III.—Reference to Court and Procedure thereon, except sub-section (*2*) of section 23 and clauses (*6*) and (*7*) of section 24.

PART IV.—Apportionment of Compensation.

PART V.—Payment.

PART VI.—Temporary occupation of land.

PART VII.—Miscellaneous, except section 54.

SCHEDULE B.

(SEE SECTION 58.)

Form of Debenture.

THE TRUSTEES FOR THE IMPROVEMENT OF THE CITY OF BOMBAY.

The 18 .

By virtue of Act No. IV of 1898 of the Council of the Governor of Bombay for making Laws and Regulations, entitled "The City of Bombay Improvement Act, 1898," we, the Trustees for the Improvement of the City of Bombay, in consideration of the sum of rupees paid to us by A. B. of , promise to pay to the said , or order, the said sum of Rupees after the date hereof, together with interest at the rate of per centum per annum, payable half-yearly on the day of and the day of

Given under our common seal this day of 189 .

Common Seal.

(Signatures of the Chairman and two Trustees.)

SCHEDULE C.

Showing lands the property of Her Majesty vested in the Board.

(SEE SECTION 60.)

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Value. Amount..	REMARKS.
1	2	3	4	5	6	7
			The Flats. (*Deposited Plan A.*)	Sq. yds.	Rs.	
1 (*a*) to (*n*) inclusive	—	1/2725 3400, 3401. 3389. and others.	Comprising the portions of vacant land vested in Her Majesty and lying within the area bounded on the *north* by the road running from the Parel Station on the Great Indian Peninsula Railway to Worli Village; on the *south* partly by Mahálaxmi and partly by Bellasis Road; on the *east* by the Bombay, Baroda and Central India Railway; and on the *west* by the sea — — ..	.—	.—	No charge against the Capital debt of the Board is made in respect of this plot.
			The Kennedy Sea Face. (*Deposited Plan B.*)			
2	—	8426	(*a*) Bounded on the *north* by the road leading to the Charni Road level-crossing; on the *south* by the northern boundary of Church Gate Street Station; on the *east* by the Bombay, Baroda and Central India Railway; and on the *west* by the sea .. — ..	335,212	.—	Average value for purposes of section 67 save in respect of any portion of this area now used as a ride and foot-path, and so long as it continues to be so used—(*a*) in event of appropriation as open space. Rs. 5 per square yard; (*b*) in event of appropriation to building purposes, Rs. 10 per square yard.
			(*b*) Bounded on the *north* by the south side of Church Gate Street; on the *south* by the west slope of the south approach to the Wodehouse bridge; on the *east* by the Bombay, Baroda and Central India Railway; and on the *west* by the sea	83,821	.—	

SCHEDULE C—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Value. Amount.	Remarks.
1	2	3	4	5	6	7
				Sq. yds.	Rs.	
			The Cooperage Plot. (*Deposited Plan C.*)			
3	...	9563	Bounded on the *north* by the Band-stand Circle ; on the *south* by Wode-house Road ; on the *east* by a line drawn in prolongation southwards of the west side of Mayo Road ; and on the *west* by the Queen's Parade Road	66,178	...	Average value for purposes of section 67, Rs. 10 per square yard.
			The Secretariat Plot. (*Deposited Plan C.*)			
4	...	8434	Bounded on the *north* by the Elphinstone College and New Secretariat ; on the *south* and *west* by the Mayo Road ; and on the *east* by Hornby Road ..	17,700	...	Average value for purposes of section 67, Rs. 25 per square yard.
			The Marine Lines Estate. (*Deposited Plan D.*)			
5	..	8452, 8453	Bounded on the *north* partly by the south side of the compound of Government bungalow No. 41 and partly by the south boundary of Plot "C" reserved for Military purposes by Government Resolution No. 2 C. W.-4, dated 3rd January 1881 ; on the *south* by Church Gate Street ; on the *east* by the Esplanade and Mayo Roads ; and on the *west* by the Marine Lines Road (Marine Street)	122,163	12,21,630	

SCHEDULE C—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Value. Amount.	Remarks.
1	2	3	4	5	6	7
				Sq. yds.	Rs.	
			The Wellington Lines Plot. (*Deposited Plan C.*)			
6	..	9562, 9563	Bounded on the *north* by Mayo Road; on the *south* by Wodehouse Road; on the *east* by Hornby Road; and on the *west* by a line drawn in prolongation southwards of the west side of Mayo Road, being the east boundary of the plot described under item 3 of this Schedule	42,394	4,23,940	
			The Wodehouse Road Plot. (*Deposited Plan C.*)			
7	..	9561	Lying between the Wodehouse Road and the Colába Causeway Roads and extending from the junction of these roads on the *north* to the boundaries of the Bombay and Baroda Railway and Great Indian Peninsula sidings and the Tramway Company's premises on the *south*, but *excluding* the site occupied by the Elphinstone College Students' quarters ..	55,625	5,56,250	
			The Cotton Green Plot. (*Deposited Plan C.*)			
8	..	9561	The triangular plot bounded on the *north* by the Bombay and Baroda Railway premises; on the *south* by private land; and on the *east* by the Colába Causeway ..	13,105	1,31,050	

(*Schedule C.*)

SCHEDULE C—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Value. Amount.	REMARKS
1	2	3	4	5	6	7
				Sq. yds.	Rs.	
			The Saluting Battery Plot.			
			(*Deposited Plan C.*)			
9	—	—	Bounded on the *north* by the Apollo Bandar Road; on the *south* by Lansdowne Road; on the *east* by Battery Street; and on the *west* by the Colába Causeway ..	5,600	2,80,000	
			The Crescent Site.			
			(*Deposited Plan C.*)			
10	—	8433	The semi-circular plot opposite the Sailors' Home and Elphinstone College, bounded on the *north* by Rampart Row	31,957	7,98,925	
			The Plot south of Old Town Barracks.			
			(*Deposited Plan D.*)			
11	..	9309	Bounded on the *north* by the Town Barracks occupied as Commissariat and Pay Offices; on the *south* and *east* by Mint Road; and on the *west* by Bazár Gate Street ..	2,166	64,980	
			The Hornby Road Plot.			
			(*Deposited Plan E.*)			
12	..	8463, 8464	Lying between Waudby and Hornby Roads and extending from the junction of those roads; on the *north* opposite the Victoria Terminus to the junction of the Esplanade and Hornby Roads; on the *south* opposite the Frere Fountain, but *excluding* areas already leased and the sites occupied by— The John Connon High School.			

SCHEDULE C—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Value. Amount.	Remarks.
1	2	3	4	5	6	7
				Sq. yds.	Rs.	
			The Hornby Road Plot—contd.			
			(*Deposited Plan E*)—contd.			
			The Frere Fletcher School,			
			Alexandra Native Girls' English Institution,			
			The Telegraph Signallers' Quarters,			
			The Cathodral Boys' High School,			
			The Cathedral Girls' High School,			
			The Cathedral Chaplain's Quarters,			
			Fort Gratuitous Dispensary,			
			and *including* the site of the Government Mews and Engineers' Stores, subject to the right of Government to the unrestricted use of those premises pending their removal at the cost of the Board to another site to be approved of by Government—the plot vested in the Board comprising—			
			Vacant areas	71,051	14,21,020	
			The Triangular Plot south of Crawford Market.			
			(*Deposited Plan D.*)			
13	..	8474	Bounded on the *south* by the Crawford Market ; on the *east* by Palton Road ; and on the *west* by Hornby Road	9,569	1,91,380	

(*Schedule C.*)

SCHEDULE C—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Value. Amount.	Remarks.
1	2	3	4	5	6	7
				Sq. yds.	Rs.	
			The Dispensary Plot.			
			(*Deposited Plan D.*)			
14	..	8478	Bounded on the *north* by the Jaffer Suleman Dispensary; on the *south* by Salvation Army premises; on the *east* by the Great Indian Peninsula Railway; and on the *west* by Hornby Road ..	1,642	33,840	
			The Plot north of Municipal Office.			
			(*Deposited Plan D.*)			
15	..	8473	Bounded on the *north* by a public road; on the *south* by a private road; on the *east* by Hornby Road; and on the *west* by land leased to the Corporation ..	6,600	1,98,000	
			The Chaupáti Estate.			
			(*Deposited Plan F.*)			
16	..	7298	(1) Bounded on the *north* partly by a public passage leading to Gibbs' Road and partly by private properties (Survey Nos 7299—7302); on the *south* partly by the Queen's Road, partly by the plot reserved for Body Guard Lines and partly by the Sirri Road; on the *east* by the Gamdevi Road; and on the *west* by an irregular line extending from where the public passage forming the north boundary meets the Gibbs' Road to the Sirri Road:—			
			(*a*) Land forming the Hill slope	52,675	..	
			(*b*) Building land	82,473	8,24,730	

(*Schedule C.*)

SCHEDULE C—*concluded.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Value. Amount.	Remarks.
1	2	3	4	5	6	7
				Sq. yds.	Rs.	
			The Chaupáti Estate—contd.			
			(*Deposited Plan F*)—contd.			
		7306	(2) Bounded on the *north* by private property; on the *south* by the Chaupáti Road; and *east* and *west* by private property ...	7,150	71,500	
			The Police Lines Plot, Dádar.			
			(*Deposited Plan G.*)			
17	..	1262 1A-4 ——— 1263	Bounded on the *north* and *east* by private lands; on the *south* by the Dádar Road; and on the *west* by the Great Indian Peninsula Railway	5,234	52,340	
			(*Deposited Plan H.*)			
18	..	2486 2487 37 8 101 61 50	The Parel Estate .. .. Subject to the right of Government to remove the materials of the buildings forming the Body Guard Lines and the Bandsmen's Quarters, provided such right is exercised within 12 months from the date which shall be notified under section 10.	330,469	9,91,407	
			Total Amount Rs.	..	72,60,992	

(Schedule D.)

SCHEDULE D.

(SEE SECTION 60.)

Showing lands the property of the Corporation vested in the Board.

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value.	
						Amount.	Total Amount.
1	2	3	4	5	6	7	8
				Sq. yds.	Sq. yds.	Rs.	Rs.
			THE CONNAUGHT ROAD ESTATE.				
			(Deposited Plan I.)				
			Ward E.				
1	....	....	Plot bounded on the *north* by vacant land, on the *south* by by Sussex Road, on the *east* by private property, and on the *west* by the Parel Road—				
			Plots A, B and C ...	1,169	....	10,521	....
			Plots E, F, G and H	1,528	....	7,640	....
			Area reserved for road ...	1,296	....	6,480	....
			Plots I, K, L and M. ...	2,817	....	14,085	....
	....	....	Plot marked B ..	10,002	....	50,010	....
2	....	....	Plot bounded on the *north* by Sussex Road, on the *south* by lands sold to private persons fronting the Connaught Road, on the *east* by land sold to Mr. Tyebally Mohamedally, and on the *west* by plots sold to private persons fronting the Parel Road—				
			Plots Nos. 6 to 16 inclusive	4,263	....	25,578	....
	....	....	Plot bounded on the *north* by vacant land, on the *south* by the Connaught Road, on the *east* by the Ghurapdeo Road, and on the *west* by the Sussex Road—				
			Plots Nos. 1 to 40 inclusive	15,752	....	78,760	
			Total Connaught Road Estate		36,827		1,93,074

(*Schedule D.*)

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of plot.	Area.	Total Area.	Value. Amount	Value. Total Amount.
1	2	3	4	5	6	7	8
			THE AGRIPADA ESTATE. (*Deposited Plans J. and K.*) *Ward D.*	Sq. yds.	Sq. yds.	Rs.	Rs
4	3880 (1)	3410	Arthur Road ..	7,750	...	25,188	...
5	3879	3409	Do. ..	6,996	...	17,490	...
6	4257 (5)	1 / 3516		2,752	...	6,880	...
7	7203 to 7206	1 / 3455		8,975	...	26,925	...
		1 / 3456					
8	4544, 4547 / 4548, 4264	3483		2,468	...	9,255	...
9	4520, 4535 / 4543, 4263	1 A / 3484		2,306	...	13,000	...
10	4567	3485		17,740	...	62,090	...
11	4268	1 / 3481		1,740	...	6,090	...
12	4257 (2)	1 A. 1 B. 1 C. 1 D. / 3485	Agripada ..				
	4352, 4353	1 A. R. 1 A. C. 4. / 3486		10,560	...	44,893	...
	4270	1 A. to 1 F. / 3847					
		1-2 3-5 / 3528					
		1 / 3506					
13	4097 to 4099	1-3 / 3527 3525		*57,708½	...	173,124	...
14	4430 (1)	1-2 3 & 5 / 3529		*245,107	...	7,35,321	
		1 / 3505					
15	4457·59	1 / 3533	Ripon Road ..	19,297	...	69,469	...
16	4066·67	1 e / 3508	Arthur Road ..	*7,704	...	27,966	...
17	4072·74	1 / 3531	Ripon Road ..	5,908	...	17,724	...
18	4566	2 A / 3487 1 / 3486	Haines Road ..	6,393	...	27,170	...
		4 / 3482					
C	... ...	... ...	Agripada ..	2,690	...	5,380	...
D	... ...	.....	DeLisle Road .	5,196	...	24,072	...
E	... ...	.....	Arthur Road ..	*1,525	...	6,100	...
			Total Agripada Estate ..		41,281		12,98,137

(*Schedule D.*)

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value. Amount.	Value. Total Amount.
1	2	3	4	5	6	7	8
				Sq. yds.	Sq. yds.	Rs.	Rs.
			LANDS AT MATUNGA. *Deposited Plan L. Ward F.*				
19	7804	809		*3,558	...	3,558	...
	7781	P 16 / 926					
	P / 7780	P 17 / 926					
	P / 7779	P 18 / 926					
	P / 7778	P 19 / 926					
20	P / 7797	P 2 / 927		*3,791	...	5,687	...
	P / 7773	P 1 / 924					
	P / 7772	P 2 / 924					
	P / 7767	P 6 / 924					
21	7770	4 A / 924					
22	7800	W 1 / 928	New Dádar-Mátunga Road.	*48	...		
23		W 1 / 928		*313	...		
24	P / 769, P / 7784 (1)	P 81 / 95 P 18 / 96		95	...		
25	7782, P / 7783	P 14 W 15 / 626		*1,256	...		
26	7769	W 4 / 924		*858	...		
27	7768	W 5 / 924		*652	...	5,465	...
28	7730	W 58 / 925		*411	...		
29	7733, 7735	W 51 & 55 / 925		*800	...		
	P / 7700	W 1, 2 / 925		*110	...		
30	P / 7735	W 51 A / 925		*761	...		
31	7736	W 52 / 925		*777	...		

(Schedule D.)

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value.	
						Amount.	Total Amount.
1	2	3	4	5		7	8
				Sq. yds.	Sq. yds.	Rs.	Ps.
			LANDS AT MATUNGA —*continued.*				
			Ward F—contd.				
32	7731	W 54 / 925		*145	...		
33	P / 7729	P 80 / 925		*853	...		
34	7707	P 80 / 925		167	...		
35	P / 7707	P 80 / 925		*238	...		
36	7728	W 80 A / 925		153	...		
37	P / 7725	P 79 / 925		47	...		
38	*Nil.*	925		*560	...		
39	7430	W 4 / 862		*22	...		
40	7429	W 5 / 862		*285	...		
41	7417, 7422	W 1 & 2 A / 863	New Dádar-Mátunga Road.	475	...	12,279	...
42	7399	W 3 / 871		683	...		
43	7405	W 1 / 869		*384	...		
44	7406	W 2 / 869		*299	...		
45	7412	W 1 / 866		*2,798	...		
46	7404	W 1 / 870		*265	...		
47	7402	W 3 / 870		*266	...		
48	7407	W 5 / 870		*591	...		
49	7403	W 2 / 870		*530	...		
50	7408	W 4 / 870		651	...		
51	P / 7131	P 1 / 872		*6,766	...		
52	7030	872		*395	...		

(*Schedule D.*)

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value.	
						Amount	Total Amount.
1	2	3	4	5	6	7	8
			LANDS AT MATUNGA—*continued.* *Ward F*—contd.	Sq. yds.	Sq. yds.	Rs.	Rs.
53	7031, 7032	P 1 & 2 W 872					
	7037	W 9 877		*6,342	...	22,504	...
54	7389	W 1 A 874					
	7390	W 1 873		*3,139	...		
	7391	W 2 873					
55	..	W 3 873		86			
56	7045	W 1 877		95			
57	7042	W 4 877		*53	...		
58	7044	W 2 877		*1,098	...	15,356	...
59	7043	W 3 877		*1,788	...		
60	7049	W 1 906		*4,119	...		
61	7050	W 2 906	New Dádar-Mátunga Road.				
62	7051, 7056	W 1 & 2 905		*2,084	...		
63	7054			357	...		
64	7055, 7052	W 3, 4 & 5 905		*2,491	...		
65	P 6835	P 4 1109		*21,542	...		
66	7130	W 4 1111		*371	...		
67	7131	W 5 1111		*476	...		
68	P 7121, 7122	P 1, W 2 1114		*2,162	...	54,334	...
69	7289	W 1 1143		*503	...		
70	7162	W 1 1173		*109	...		
71	7161	W 2 1173		108	...		
72	7163	W 1172		*2,185			

(*Schedule D.*)

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value. Amount.	Value. Total Amount.
1	2	3	4	5	6	7	8
			LANDS AT MÁTUNGA—*continued.* *Ward F*—contd.	Sq. yds.	Sq. yds.	Rs.	Rs.
73	6824	1238		*183	...		
74	P / 6823	P1 W2 / 1238 1237		*6,161	...		
75	6825	W 1 / 1239		961	...		
76	6783	W 7 / 1242		415	...		
77	6789	W 2 / 1242		*3,453	...		
	6818, 6819	W 3, W 4 / 1236				13,423	...
78	P / 6791	P 1 / 1235		*8,877	...		
79	6794, 6797	W 2, W 5 / 1233		*847	...		
80	6799	W 7 / 1233		*1,118	...		
81	P / 6449, 6450	P 2 / 1195 7		*1,035	...		
82	6635	1206		*762	...	6,564	...
83	6636 to 6639	W 2, 3, 4, 5 / 1206		*391	...		
	P / 6814	P 2 / 1232	New Dádar-Mátunga Road.				
	6813	W 3 / 1232					
	6624	W 1 / 1209					
84	P / 6623	P 2 / 120		*2,948	...	5,159	..
	P / 6634	P 7 A / 1206					
	6633	8 / 1206					
	6452	1 / 1195					
85	6640, 6632	W 1-9 / 1206		*1,156	...	1,445	...
86	P / 6454	P 1 / 1194		*1,066	...	2,665	...
87	P / 797 (2)	P 1 / 2089		*2,823	...	24,344	...
	829 (2), 830 & 798						
88	6591	10 / 1213		*3,363	...		

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value. Amount.	Value. Total Amount.
1	2	3	4	5	6	7	8
			LANDS AT MÁTUNGA—*continued.* *Ward F*—contd.	Sq. yds.	Sq. yds.	Rs.	Rs.
89	765	P 1 / 2080		12,175	...	23,233	...
	766	W 2 / 2080			.		
90	766	P 3 / 2080		...	...		
91	763	P 1 / 2024		*4,420	...		
92	P / 775 (1)	P 1 / 2028		*1,123	...	1,123	...
93	P / 775 (2)	P 1 A / 2026		8,376	...	4,188	...
	743 (1)	P 1 / 2031					
	743 (3A)						
	744	A / 2030					
94				*1,367	...	16,094	...
95							
96	P	P 1		*948	...		
97	742	2035					
98			New Dádar-Mátunga Road.	*813	...		
99	P / 742	P 2 / 2035		*1,204	....	5,418	...
100	P / 667	P 1 / 2036		*717	...	2,151	...
101	6800	12 / 1232		606	...	1,142	...
102	6802	W 10 / 1232		536	....		
103	7109	W / 1119		679	...	610	...
104	7112	W 2 / 1717		338	...		
105	778	2 / 2027		*500	...	500	...
106	777	1 / 2027		*610	...	610	...
107	776, 779	3-4 / 2027		*2,114	...	2,114	...
108	769	2 / 2028		*767	...	767	...
109	770	1 / 2028		*3,325	...	3,325	...

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value.	
						Amount.	Total Amount.
1	2	3	4	5	6	7	8
			LANDS AT MÁTUNGA—*continued.* *Ward F*—contd.	Sq. yds.	Sq. yds.	Rs.	Rs.
110	7401, 7400	5, 1-2 / 871		*5,737	...	5,737	...
	7423 to 7429	4, 5, 6, 7, 8, 9 / 863					
	7422	2 A / 863					
111	7327	2 / 1130		1,331	...	799	...
112	7249	5 / 1151		*8,950	...	6,713	...
	7241, 7243	6 / 1152, 4 / 1152					
	7251	3 / 1151					
	7137-38	4-5 / 1174					
113	7288 (1-2), 7287, 1164	2-3 / 1143		*3,627	...	2,720	...
	7288 (1), 7165, 7167	2 / 1143, 2-4 / 1171					
114	7111, 7113	1-3 / 1117	New Dádar-Mátunga Road.	3,723	...	2,234	...
	7118	2 / 1116					
115	7236, 6767	2 / 1153, 1 / 1243		6,712	...	5,034	...
	6684, 6683	3 / 1454, 2 / 1254					
	6741, 6784	5 / 1247, 6 / 1242					
	6678, 6762	4 / 1255, 5 / 1243					
	7319	2 / 1132					
116	7244, 7239	3 / 1152, 5 / 1153		*5,415	...	4,060	...
	6795-96, 6798	3, 4, 6 / 1233					
	6820, 6743	4 / 1237, 3 / 1247					
	6675-76 & 6778, 6782	6-7 / 1255 & 1-5 / 1241					

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area	Total Area.	Value.	
						Amount.	Total Amount.
1	2	3	4	5	6	7	8
			LANDS AT MÁTUNGA—*continued.* *Ward F*—contd.	Sq. yds.	Sq. yds.	Rs.	Rs.
117	7318	1/1132		3,804	...	2,282	...
118	7409	868		2,187	...	2,187	...
119	7119, 7116 7114	1-4/1116, 4/1117		2,197	...	1,098	...
120	6816	1/1236		*2,283	...	1,641	...
121	7325, 7323	4/1130, 1/1131		3,436	...	2,062	...
122	7107	2/1119		1,037	...	777	...
123	6803 (1)	Western portion of 7 A 1232		309	...	232	...
124	6801	11/1232		559	...	419	...
125	6821, 6579 & 6792	3/1237, 1/1233 & 1/1234		2,240	...	1,680	...
126	7125, 7126	1-2/1112 and western portion of 1-2/1110	New Dádar-Mátunga Road.	*3,732	...	2,799	...
127	7804	1/808		*529	...	396	...
128	7242, 7254 7172, 6783 7269 7166 (1) 7127 (2)	5/1152, 5/1150 1/1169, 7/1242 1/1148		6,982	...	5,234	...
129	7160 (2)	8/1171 Western part of 1111 and northern part of 3/1173		*9,818	...	6,873	...
130	7115, 7108 7106, 7104	5/1116, 1/1119 5/1119, 3/1119		3,984	...	2,988	...

(*Schedule D.*)

SCHEDULE D—*continued.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value.	
						Amount.	Total Amount.
1	2	3	4	5	6	7	8
			LANDS AT MÁTUNGA—*continued.* *Ward F*—contd.	Sq. yds.	Sq. yds.	Rs.	Rs.
131	7179 (1)	3/1167		*3,023	...	2,267	...
132	7326, 7324	3/1130, 2/1131		3,593	...	2,694	...
133	6642 (1) 6641	The whole of the north portion of 1a/1204, up to 1/1205, 1a/1204		*3,710	...	2,733	...
134	6793	2/1234		*323	...	262	...
135	7771	3/924		660	...	660	...
136	7801, 7802	2-3/928		* 845	...	634	...
37	7053, 7055	5-6/205		*2,566	...	2,566	...
138	6817	2/1236		*1,855	...	1,391	...
139	6679 (1) 6641 6651, 6652 6643 (1)	3/1255, 1/1205 2-3/1199 on the east side thereof, also on the side thereof, etc. 1203	New Dádar-Mátunga Road.	*3,735	...	...	...
140	7039	7/877		*576	...	432	...
141	7040, 7041 7038	5, 6/877 & 8/877		883	...	662	...
142	7182(2)	1166		*448	...		
143	7179(1) 7181 7197	3/1167 1163		1,361	...	1,559	...
144	7194 to 96	1, 2, 3/1164		5	...		
145	7173-78	1, 2, 3, 4, 5, 6, 1168		*265	...		

(*Schedule D.*)

SCHEDULE D—*concluded.*

Consecutive Number of Plot corresponding to the number shown on the Deposited Plans.	Ward Number.	Survey Number.	Locality and Description of Plot.	Area.	Total Area.	Value. Amount.	Value. Total Amount.
1	2	3	4	5	6	7	8
			LANDS AT MÁTUNGA—*concld.*	Sq. yds.	Sq. yds.	Rs.	Rs.
			Ward F—concld.				
146	7128	5/810		1,113	...	389	...
147	7147, 7849	11/813, 8/811 and others.		895	...	313	...
148	7826-37	3-4/810		2,135	..	747	...
149	7924	10/811		451	...	158	...
150	784	6/812	New Dádar-Mátunga Road.	562	...	197	...
151	7398, 7329	1/1127, 1/1129		6,829	...	5,122	...
	7330, 7331	2/1129, 3/1129					
	7732	4/1129					
F	... ...	... ...	Dádar Road ..	8,185	...	7,876	...
G	... ...	... ...	Mátunga ..	13,185	...	9,770	...
H	... ...	... ...	Lady Jamsetji Road ..	7,387	...	14,060	...
			Total Lands at Mátunga ..	...	298,376	...	3,49,348
			GRAND TOTAL ..	...	748,018	...	18,40,559

The amounts shown in this schedule are subject to deduction in respect of the plots marked with an asterisk, portions of which have been appropriated to roads as shown on the Deposited Plans.

(*Schedules E and F.*)

SCHEDULE E.

(*See section 61.*)

SHOWING THE LIMITS WITHIN WHICH THE RIGHT TO RECLAIM THE BED OF THE SEA VESTS IN THE BOARD.

Colabá.—The foreshore below high water mark extending southwards from a point opposite the foot of the south approach to the Wodehouse Bridge along the west side of Colába to the extreme limit of Colába Point.

Wálkeshwar and Mahálaxmi.—The western foreshore of the Island below high water mark extending from Worli Fort to Malabar Point.

SCHEDULE F.

(*See section 74.*)

SHOWING LANDS INCLUDED IN SCHEDULE C LEASED BY GOVERNMENT BETWEEN 1ST SEPTEMBER, 1897, AND THE DATE WHICH SHALL BE NOTIFIED UNDER SECTION 10

Locality.	Description of Plot.	Area.	Terms of Lease.
		Sq. yds.	
The Hornby Road Plot.	Bounded on the *North* by the John Connon High School: on the *South* and *East* by the Connon Road; and on the *West* by the Esplanade Road.	3,268·33	Ninety-nine years, at a ground-rent of one anna per square yard per annum, renewable for a further term of 99 years.

And such other lands as may be leased prior to the date notified under section 10.

BOMBAY ACT No. I OF 1899.[1]

[25*th May*, 1899.]

An Act further to amend the Bombay Port Trust Act, 1879.

WHEREAS it is expedient further to amend the Bombay Port Trust Act, 1879, in manner hereinafter appearing ; It is enacted as follows :— Bom. VI of 1879.

Amendment of section 3 (12).

1. In the Bombay Port Trust Act, 1879, which is hereinafter referred to as the said Act, for clause (*12*) of section 3 there shall be substituted the following, namely : Bom. VI of 1879.

[Vol. II of this Code, p. 711.]

Amendment of section 13.

2. In the said Act the first two paragraphs of section 13 shall be numbered as sub-sections (*1*) and (*2*), and the following shall be added :

[Vol. II of this Code, p. 713.]

Amendment of section 14.

3. For section 14 of the said Act the following shall be substituted, namely :

[Vol. II of this Code, p. 714.]

Insertion of new sections after section 14.

4. After section 14 of the said Act the following sections shall be inserted :

[Vol. II of this Code, p. 715.]

Amendment of section 15.

5. In the said Act the first paragraph of section 15 shall be numbered as sub-section (*1*), and for the second paragraph of the same section there shall be substituted the following, namely :

[Vol. II of this Code, p. 715.]

Amendment of section 21.

6. In the proviso to section 21 of the said Act as amended by Bombay Act III of 1883, in place of the word and figure " and 6 " there shall be substituted the following, namely, " (6) and (7) ".

Amendment of section 22.

7. To section 22 of the said Act there shall be added the following, *viz.*:

[Vol. II of this Code, p. 719.]

Amendment of section 23.

8. In section 23 of the said Act, for the first twenty-two words thereof there shall be substituted the following, namely :

[Vol. II of this Code, p. 720.]

Amendment of section 37.

9. In section 37 of the said Act, after the first sentence ending with the " thoroughfare " there shall be inserted the following, *viz.*:

[Vol. II of this Code, p. 72[illegible].]

Insertion of two new sections after section 42.

10. After section 42 of the said Act there shall be inserted the following new sections, *viz* :

[Vol. II of this Code, p. 728.]

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1897, Pt. V, P. 277, ; for report of Select Committee, *see ibid*, 1898, p. 214; and for Proceedings in Council, *see ibid*, 1898, pp. 292 and 399, and *ibid*. 1899, p. 13.

11. The last three paragraphs of section 43 of the said Act are repealed. Repeal of part of section 43.

12. After section 43 of the said Act the two following sections shall be inserted, *viz.* : Insertion of two new sections after section 43.

[Vol. II of this Code, p. 729.]

13. After clause (*5*) of section 49 of the said Act the following clause shall be inserted, *viz.* : Amendment of section 49.

[Vol. II of this Code, p. 731.]

14. To section 50 of the said Act there shall be added the following *viz.* : Amendment of section 50.

[Vol. II of this Code, p. 731.]

15. After section 51 of the said Act there shall be inserted the following new section, *viz.* : Insertion of a new section after section 51.

[Vol. II of this Code, p. 732.]

16. After section 67 of the said Act there shall be inserted the following new section, *viz.* : Insertion of a new section after section 67.

[Vol. II of this Code, p. 738.]

17. In section 68 of the said Act between clause (*7*) and the proviso thereto the following shall be inserted, *viz.* : Amendment of section 68.

[Vol. II of this Code, p. 739.]

18. In section 73 of the said Act, the word "and" at the end of clause (*g*) shall be omitted; clause (*h*) shall be lettered as clause (*i*); and the following shall be inserted as clause (*h*) : Insertion of a new clause in section 73.

[Vol. II of this Code, p. 741.]

19. For the proviso to section 78 of the said Act there shall be substituted the following, *viz.* : Amendment of section 78.

[Vol. II of this Code, p. 742.]

20. In the last sentence of section 84 of the said Act, between the words "authorized" and "officer" there shall be inserted the words "Dock Master or"; the words "or of the Master Attendant's Department" shall be omitted; and the following words shall be added at the end of the section, *viz.* : Amendment of section 84.

[Vol. II of this Code, p. 744.]

21. The enactments mentioned in the Schedule are repealed to the extent specified in the third column thereof. Repeal of enactments.

SCHEDULE.

(*See section 21.*)

Enactments.	Subject.	Extent of Repeal.
Bombay Act VI of 1879.	Bombay Port Trust Act.	Section 9 to, and including, the words "in every other case." Section 10 to, and including, the words "in every other case." Section 21 the words from "until a schedule" to "foregoing provisions." Section 57.
Bombay Act III of 1883.	Bombay Port Trust, amending Bombay Act VI of 1879.	Section 5.

BOMBAY ACT No. II OF 1899.[1]

[*7th June, 1899.*]

An Act to make better provision in the City of Bombay and elsewhere for preventing the adulteration of Ghee and other articles of human food.

WHEREAS it is expedient to make better provision in the City of Bombay and elsewhere for preventing the adulteration of Ghee and other articles of human food; It is enacted as follows:—

PRELIMINARY.

Short title

1. (*1*) This Act may be cited as the Bombay Prevention of Adulteration Act, 1899.

Extent.

(*2*) This Act extends to the whole of the Presidency of Bombay, but it shall not come into force except as in this section provided.

[1] For the Statement of Objects and Reasons, *see* Bombay Government Gazette, 1888, Pt V, p. 225; for Reports of Select Committee, *see ibid*, p. 302, and *ibid*, 1899, p. 1; and for Proceedings in Council, *see ibid*, p. 400, and *ibid*, 1899, pp. 13, 42 and 64.

(*3*) This section and section 6 shall come into force at once throughout the extent of this Act.

(*4*) The other sections of this Act shall come into force, subject to the provisions of sub-section (*5*), Commencement.

(*a*) in the City of Bombay at once, and

[1](*b*) in each municipal district elsewhere in respect of which the Governor in Council at any time so directs by notification, from such date which shall not be less than one month from the date of the notification, as he prescribes therein in this behalf.

(*5*) (*a*) Nothing contained in any section coming into force under sub-section (*4*) shall apply— Provisions restricting the application of certain sections.

(*i*) in the City of Bombay, in the first instance, to any food other than ghee,

(*ii*)[2] in any municipal district, to any food which is not of a kind to which the provisions contained in such section are, by a notification under this section, for the time being made applicable in such district.

(*b*) But each of the said sections and of the amendments therein contained, in respect of which the Governor in Council at any time so directs by notification, shall in the City of Bombay or in any municipal district mentioned in such notification, apply to food of all kinds, or to food of any kind therein specified, from such date, which shall not be less than one month from the date of such notification, as shall be prescribed therein in this behalf.

(*c*) The Governor in Council may at any time cancel or vary, but not otherwise than in accordance with the provisions of this section, any notification made thereunder.

(*d*) No proceedings shall at any time be instituted under section 3, without the order or consent in writing,— No proceedings to be instituted without leave of Commissioner or President or Vice-President of Municipality.

(*i*) in the City of Bombay, of the Commissioner, or

(*ii*) in a municipal district, of the President or the Vice-President of the Municipality.

(*e*) In all prosecutions under section 3 or section 4, the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence Summons when to be applied for

[1] Sections 2, 3 and 4 came into force within the Municipal Districts of Karachi, Hyderabad and Bandra and Kurla with effect from the 15th August, 1901, *see* Notification No. 3842, dated 5th July, 1901, in Bombay Gazette, 1901, Pt. I, p. 1155, *ibid*, 1902, Pt. I, p. 675, and *see* also addenda on p. ccxcvi of the list prefixed to the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

[2] For notification restricting the application of the provisions of this Act to ghee within the Municipal Districts of Karachi, Hyderabad, Bandra and Kurla, *see* Notification No. 3842, dated 5th July, 1901, in Bombay Gazette, 1901, Pt. I, p. 1155, *ibid*, 1902, Pt. I, p. 675.

and what it is to contain.

against such section, unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused, and if such prosecution relates to a perishable article purchased from such person for the purpose of analysis, the application for such summons shall be refused unless it is made within twenty-eight days from the date of the purchase of such article, and particulars of the offence or offences against this Act of which such person is accused, and the name of the prosecutor, shall be stated in the summons, and the day fixed for the hearing of the case shall not be less than seven days from the day on which the summons is served upon such person.

Meaning of "food", where its application is not restricted.

(*6*) In this section and in the amendments contained in section 6, the term "food" does not include drugs or water, but includes every other article which is used for food or drink by man.

Act to be read with Municipal Acts in force.

2. [1]Subject to the provisions of section 1, this Act shall, in so far as it affects the City of Bombay, be read with, and construed as if it were part of, the [2]City of Bombay Municipal Act, 1888, and, in so far as it affects any other part of the Presidency of Bombay, shall be read with, and construed as if it were part of, the [3][Bombay [4]District Municipal Act, 1901]. Bom. III of 1888. Bom. III of 1901.

PROVISIONS WHICH RELATE TO THE SALE OF FOOD, AND WHICH MAY BY NOTIFICATION BE MADE APPLICABLE TO ANY FOOD.

Punishment for selling human food not of the proper nature, substance or quality.

3. [1](*1*) Whoever sells to the prejudice of the purchaser any article of food which is not of the nature, substance or quality of the article demanded by such purchaser, shall be punished for the first offence with fine which may extend to one hundred rupees, and for a second or any subsequent offence with fine which may extend to five hundred rupees.

Protection to persons acting in good faith

(*2*) Provided that no offence shall be deemed to have been committed under this section in the following cases, that is to say,—

(*a*) where any matter or ingredient not injurious to health has been added to the article of food, because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food or conceal the inferior quality thereof;

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1 *See* footnote to s. 1 (*4*) (*b*). *supra*, p. 1503.

2 Vol. III of this Code, p. 975.

3 These words and figures were substituted for the words and figures "Bombay District Municipal Acts, 1873 and 1884," by the Schedule to the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902), *infra* p. 1644.

4 *See infra*, p. 1527.

(*Provisions which relate to the sale of food, and which may by notification be made applicable to any food. Sec. 4.*)

(*b*) where in the process of production, preparation or conveyance of such article of food some extraneous substance has unavoidably become intermixed therewith;

(*c*) where any matter or ingredient not injurious to health has been added to or mixed with such article of food and, before the sale thereof, the seller has brought to the notice of the purchaser, either by means of a label distinctly and legibly written or printed on or with the article or otherwise, the fact that such matter or ingredient has been so added or mixed.

Explanation.—If in compliance with a demand for ghee any article is supplied which contains any substance not exclusively derived from milk, such article shall be deemed to have been sold to the prejudice of the purchaser within the meaning of sub-section (*1*), unless before the sale thereof the seller has brought to the notice of the purchaser the fact that it contains such substance.

What is or is not a good defence in prosecutions under this section.

(*3*) In any prosecution under this section it shall be no defence to allege that the vendor was ignorant of the nature, substance or quality of the article sold by him, or that the purchaser having bought only for analysis was not prejudiced by the sale:

Provided that the vendor shall not be deemed to have committed an offence under this section, if he proves to the satisfaction of the Court—

(*a*) that the article sold was purchased by him as the same in nature, substance and quality as that demanded by the purchaser, and with a written warranty to the effect that it was of such nature, substance and quality;

(*b*) that he had no reason to believe at the time when he sold it that the article was not of such nature, substance and quality as aforesaid; and

(*c*) that he sold it in the same state in which he purchased it.

Persons refusing to sell any article to proper authority liable to penalty.

4. [1](*1*) If in the City of Bombay the Commissioner or any officer empowered by him in that behalf, or elsewhere the officer authorized by the Municipality for the purposes of [2][section 142 of the [3]Bombay District Municipal Act, 1901], shall apply to purchase any article of food exposed for sale, and shall tender the price for a quantity not more than shall be reasonably requisite for the purpose of analysis, and the person exposing the same for sale shall refuse to sell the same, such person shall be liable to a penalty not exceeding fifty rupees.

Bom. III of 1901.

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1 *See* footnote to s. 1 (*4*) (*b*), *supra*, p. 1503.

2 These words and figures were substituted for the words and figures "section 68 of the Bombay District Municipal Act, 1873," by the Schedule to the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902), *infra*, p. 1644.

3 *Infra*, p. 1527.

(Provisions which relate to exposure for sale, etc., and which may by notification be made applicable to any food. Sec. 5.)

Provisions for identifying sample purchased.

(*2*) The Commissioner or officer empowered as aforesaid in the City of Bombay, and elsewhere the officer authorized by the Municipality as aforesaid, on purchasing any article under this section for the purposes of analysis, shall, after the purchase shall have been completed, forthwith notify to the seller or his agent selling the article his intention to have the same analysed by the Chemical Analyser to Government, and shall offer to divide the article into three parts to be then and there separated and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

He shall afterwards retain one of the said parts for future comparison and submit the third part, if he deems it right to have the article analysed, to the Chemical Analyser to Government.

(*3*) If the seller or his agent do not accept the offer of the purchaser as aforesaid to divide the article purchased in his presence, the Chemical Analyser to Government receiving the article for analysis shall divide the same into two parts, and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he supplies his certificate, to be delivered to the purchaser, who shall retain the same for production in case proceedings shall afterwards be taken in the matter.

PROVISIONS WHICH RELATE TO EXPOSURE FOR SALE, ETC., AND WHICH MAY BY NOTIFICATION BE MADE APPLICABLE TO ANY FOOD.

Addition to section 415 of the City of Bombay Municipal Act, 1888.

5. (*1*) In the City of Bombay Municipal Act, 1888,— Bom. III of 1888.

(*a*) to section 415 there shall be added the following, namely :

[Vol. III of this Code, p. 1153.]

Addition of section to section 417 of the City of Bombay Municipal Act, 1888.

(*b*) After section 417 thereof, there shall be inserted the following new section, namely :

[Vol. III of this Code, p. 1153.]

(*2*) [*Addition of section to section 68 of the Bombay District Municipal Act, 1873.*] *Rep. Bom. Act 3 of 1901, s. 2 (2).*

Amendments in the Bombay City Municipal Act, 1888, and in the Bombay District Municipal Act, 1873.

[1][(*2*)] The proviso hereinafter contained shall be added as sub-section (*2*) [1]*to section 417A of the City of Bombay Municipal Act, 1888, as amended by sub-section (*1*) of this section. Bom. III of 1888.

[1]*

(*b*) *Rep. Bom. Act 3 of 1901, s. 2 (2).*

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[1] The figure (2) was substituted for the figure " 3 ", and the letter " (*a*) " and the word " and " were repealed by the Schedule to the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902), *infra*, p. 1642.

PROVISIONS WHICH COME INTO FORCE AT ONCE AND ARE NOT RESTRICTED IN THEIR APPLICATION.

Bom. III of 1888.

6. * [1] In the City of Bombay Municipal Act, 1888,—

(*a*) in sub-section (*2*) of section 417, for the words "he shall cause" there shall be substituted the following, namely:

[Vol. III of this Code, p. 1153.]

(*b*) after section 417A of the said Act as amended by sub section (*1*) and sub-section (*3*) of section 5 of this Act, there shal be inserted the following new sections, namely:

[Vol. III of this Code, pp. 1154 & 1155.]

New section to be inserted after section 417A in the City of Bombay Municipal Act.

(*2*) [*Amendment of section 68 of the Bombay District Municipal Act, 1873.*] *Rep. Bom. Act 3 of 1901, s. 2 (2).*

BOMBAY ACT No. III OF 1899.[2]

[Amended Bom. Act I of 1908, *infra*, p. .]

[*11th November, 1899.*

An Act to provide for the grant of Special Occupancies in certain Government lands in Sind.

WHEREAS it is expedient to provide for the grant by the Government of special occupancies in certain lands in the Province of Sind within the Presidency of Bombay which are the property of the Government and are wholly or partly irrigable from Government canals; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Government Occupants (Sind) Act, 1899. Short title.

(*2*) It extends to the Province of Sind, being part of the territories for the time being administered by the Governor of Bombay in Council. Extent.

(*3*) It shall come into force at once. Commencement.

2. [3] In this Act, unless there is something repugnant in the subject or context, "Collector" includes also any officer appointed by the Local Government to perform all or any of the functions of the Collector under this Act. And the Local Government may delegate to any officer so appointed all or any Definition.

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[1] The figure (1) was repealed by the Schedule to the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902), *infra*, p. 1644.

[2] For the Statement of Objects and Reasons, *see* Bombay Government Gazette, 1899, Pt. V, p. 69; and for Proceedings in Council, *see ibid*, p. 214.

For amending Act, *see* Government Occupants (Sind) Amendment Act, 1908 (Bom. Act I of 1908) which was added while this Volume was passing through Press, *infra*, p. .

[3] For list of notifications issued under these sections, *see* addenda to p. cxcvi of the list prefixed to the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

of the powers of a Collector under the[1] Bombay Land Revenue Code, 1879, in the area subject to his administration. Bom. V of 1879.

Application of Act.

3. [2] The Local Government may, by notification in the official Gazette, apply the provisions of this Act to any tract of land in Sind, such land being the property of Government and being wholly or partly irrigable from a canal the property of Government.

Issue of statements of conditions of occupancies.

4. [2] When this Act has been so applied to any tract, the Local Government may issue a statement or statements of the conditions on which it is willing to grant to occupants lands situate in such tract.

Maintenance of registers of occupancies.

[3] **5.** (*1*) *When any such statement has been issued for any tract, the Collector shall, in manner hereinafter provided, open and maintain for such tract a register or registers of occupancies granted on the conditions prescribed in such statement.*

(*2*) *Every such register shall have prefixed thereto a copy of the statement of conditions to which it relates and shall be in such form and shall contain such particulars as to the occupancies registered therein as the Local Government may prescribe.*

Entry in register and signature thereof on grant of occupancy.

[3] **6.** * [4] *Before an occupancy is granted to any person in any such tract, the prescribed particulars regarding the proposed grant shall be duly entered in the appropriate register, and the entry shall be signed by the proposed occupant and by the Collector.*

Effect of signature of entry.

7. When any [5] *entry in any such register* has been so signed as directed in the last foregoing section, the person signing the same as proposed occupant and his successors in interest shall, notwithstanding any previous agreement or anything contained in the [1] Bombay Land Revenue Code, 1879, or any other enactment now in force, be deemed to have accepted and to hold the lands described in such [5] *entry* as an occupant from the Government on the conditions[5] *prescribed in the statement prefixed to such register.* Bom. V of 1879.

Transfer of rights of occupants.

8. The rights or interests vested in an occupant by or under this Act shall not be capable of being attached or sold in execution of a decree or order of any Court or in any insolvency proceedings, nor shall they or any of them, without the previous consent in writing of the Commissioner in Sind, be transferred or charged by any sale, gift or mortgage or other private contract.

Sums due in respect to occupancy recoverable as arrears of land-revenue.

9. All sums due to the Government in respect of an occupancy granted in pursuance of this Act shall be recoverable as if they were arrears of land-revenue due from the occupant in respect of such occupancy.

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[1] Vol. II of this Code, p. 631.

[2] For list of notifications issued under these sections, *see* addenda to p. ccxcvi of the list prefixed to the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

[3] For substitution of these sections *see* the Government Occupants (Sind) Amendment Act 1908, (Bom. Act I of 1908), s. 2, *infra*, p. 1780.

[4] The figure "(1)" was repealed by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), *infra*, p.

[5] For substitution of other words for these words, *see ibid*, s. 3, *infra*, p. 1789.

10. Notwithstanding anything hereinbefore provided, any occupancy which may have been granted, upon special conditions, at any time after the 15th day of October 1899 and before the passing of this Act, in respect of lands comprised within any tract which may be notified under section 3, shall be deemed to have been granted under the provisions of this Act, and shall have the same validity as if it had been granted in accordance with the foregoing provisions. [1]*Such particulars as may be prescribed by the Local Government shall be entered in respect of such occupancies in the registers provided under section 5.*

Retrospective effect given to the Act in respect of occupancies granted under conditions before the passing of the Act.

BOMBAY ACT No. I OF 1900.[2]

[*1st June, 1900.*]

An Act to amend the Bombay Civil Courts Act, 1869.

XIV of 1869. X of 1876 and XV of 1880. XII of 1891. Bom. III of 1895. 55 & 56 Vict., c. 14.

WHEREAS it is expedient to amend the [3]Bombay Civil Courts Act, 1869, as amended by the Bombay Revenue Jurisdiction Acts, 1876 and 1880, the Repealing and Amending Act, 1891, and by the Bombay Civil Courts Act Amendment Act, 1895 ; and whereas the previous sanction of His Excellency the Governor General required by section 5 of the Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is enacted as follows :—

Short title.

1. This Act may be cited as the Bombay Civil Courts Amendment Act, 1900.

Amendment of section 16.

XIV of 1899.

2. [4] In the first sentence of section 16 of the [2]Bombay Civil Courts Act, 1869, amended as aforesaid, after the word " value " where it first occurs shall be inserted the following :—" applications or references under Special Acts ", and after the word " applications " where it occurs for the second time the words " or references " shall be inserted.

Amendment of section 21.

3. At the end of section 21 of the said Act, amended as aforesaid, the following shall be added :—

[Vol. I of this Code, p. 96.]

Amendment of section 23.

4. [4] (*a*) In the first paragraph of section 23 of the said Act, amended as aforesaid, after the word " jurisdictions " the following words shall be added :—

[Vol. I of this Code, p. 97.]

(*b*) For the last paragraph of section 23 of the said Act, amended as aforesaid, there shall be substituted the following :—

[Vol. I of this Code, p. 98.]

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[1] This sentence was repealed by the Government Occupants (Sind) Amendment Act 1908, (Bom. Act I of 1908), s. 4, *infra* p.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1900, Pt. V, p. 3 ; for Report of Select Committee, *see ibid*, p. 59 ; for Proceedings in Council, *see ibid*, pp. 43, 45 and 69.

[3] Vol. I of this Code, p. 92.

[4] Ss. 2 and 4 to 9 of the Act have been extended under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), General Acts, Vol. II, to the Province of Sindh, *see* Gazette of India, 1900, Pt. I, p. 823, *ibid*, 1901, Pt I, p. 73.

Amendment of section 27.

5. [1] (*a*) In the first paragraph of section 27 of the said Act, amended as aforesaid, after the words "first class" there shall be inserted the following :—

[Vol. I of this Code, p. 99.]

(*b*) In the second paragraph of the said section, after the words "first class" there shall be added the following :—

"or a Judge of a Court of Small Causes."

(*c*) For the third paragraph of the said section there shall be substituted the following :—

[Vol. I of this Code, p. 99.]

Amendment of section 28.

6. [1]For the first paragraph of section 28 of the said Act, amended as aforesaid, there shall be substituted the following :—

[Vol. I of this Code, p. 99.]

Amendment of section 40.

7. [1]In section 40 of the said Act, amended as aforesaid, for the words "Governor of Bombay in Council" the words "the District Judge" shall be substituted, and for the words "the Governor General of India in Council" the words "the Governor of Bombay in Council," and after the word "Act" the following shall be added :—

"within the local limits of his jurisdiction."

Insertion of a new section 40A.

8. [1]After section 40 of the said Act, amended as aforesaid, the following new section shall be inserted :—

[Vol. I of this Code, p. 103.]

Insertion of a new section.

9. [1]After section 41 of the said Act, amended as aforesaid, the following new section shall be inserted :—

[Vol. I of this Code, p. 104.]

BOMBAY ACT No. II OF 1900.[2]

[*25th September, 1900.*]

An Act to further amend the City of Bombay Municipal Act, 1888.

WHEREAS it is expedient further to amend the City of Bombay Municipal Act, 1888, in manner hereinafter appearing ; It is hereby enacted as follows :—

Amendment of section 74 (2) (c).

1. For clause (*c*) of sub-section (*2*) of section 74 of the City of Bombay Municipal Act, 1888, there shall be substituted the following, namely : Bom. Act III of 1888.

[Vol. III of this Code, p. 1021.]

2. In sub-section (*3*) of section 75 of the said Act, for the words "rupees fifteen hundred" where they occur therein, there shall be substituted the following, namely :

"the maximum permissible under clause (*c*) of sub-section (*2*) of section 74, in respect of the officer in whose place such person is appointed."

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1 *See* the fourth footnote on p. 1509.

2 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1900, Pt. V, p. 84 ; and for Proceedings in Council, *see ibid*, p. 163.

BOMBAY ACT No. III OF 1900.[1]

[*25th October, 1900.*]

An Act to amend the Bombay City Land Revenue Act, 1876.

Bom. II of 1876.

WHEREAS it is expedient to amend the Bombay City Land Revenue Act, 1876, in manner hereinafter appearing ; It is enacted as follows :—

Bom. II of 1876.

Amendment of Interpretation section.

1. In the Bombay City Land Revenue Act, 1876, hereinafter referred to as the said Act, in section 3 thereof,

(*a*) after the words " in the subject or context," there shall be inserted the following, namely :—

[Vol. II of this Code, p. 553.]

(*b*) For clause (*4*) of the same section there shall be substituted the following, namely :

[Vol. II of this Code, p. 553.]

Addition to section 9.

2. To section 9 of the said Act there shall be added the following, namely :

[Vol. II of this Code, p. 555.]

Addition to section 10.

3. To section 10 of the said Act there shall be added the following, namely :

[Vol. II of this Code, p. 555.]

Amendment of section 13.

4. In section 13 of the said Act, for the first seventeen words thereof, there shall be substituted the following, namely :

[Vol. II of this Code, p. 556.]

Amendment of section 26.

5. In section 26 of the said Act, after the words " any such encroachment," there shall be inserted the following, namely :

[Vol. II of this Code, p. 560.]

Amendment of section 31.

6. In section 31 of the said Act, after the words " instrument of transfer, if any," there shall be inserted the following, namely :

[Vol. II of this Code, p. 561.]

Addition to section 36.

7. To section 36 of the said Act there shall be added the following, namely :

[Vol. II of this Code, p. 563.]

Amendment of section 37.

8. In section 37 of the said Act, after the words " repair of survey boundary marks," the following words shall be inserted, namely :

"or on account of the abatement or removal of an encroachment."

Addition to Schedule A.

9. The following shall be added to Schedule A of the said Act :

[Vol. II of this Code, p. 565.]

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1900, Pt. V, p. 6 ; for Report of Select Committee, *see ibid*, p. 73 ; and for Proceedings in Council, *see ibid*, pp. 26, 71 and 159.

BOMBAY ACT No. I OF 1901.[1]

[*7th March, 1901.*]

An Act to amend the Bombay Salt Act (Bombay Act II of 1890).

WHEREAS it is expedient to amend the [2]Bombay Salt Act, 1890 ; It is hereby enacted as follows :— Bom. II of 1890.

1. For section 3, clause (*m*), of the said Act, there shall be substituted the following, namely :

[Vol. III of this Code, p. 1309.]

2. In clause (*c*) of section 47 of the said Act there shall be inserted between the words "receives" and "or, without lawful excuse," the words "or is in possession of".

BOMBAY ACT No. II OF 1901.[3]

[*29th March, 1901.*]

An Act to further amend the Bombay Port Trust Act of 1879.

WHEREAS it is expedient to further amend the [4]Bombay Port Trust Act, 1879, in manner hereinafter appearing ; It is enacted as follows :— Bom. VI of 1879.

Title. 1. (*1*) This Act shall be called the Bombay Port Trust Act Amendment Act of 1901.

Commencement. (*2*) It shall come into force on 1st April, 1901.

2. In clause (*3*) of section 36 of the [4]Bombay Port Trust Act as amended by section 145 of the [5]City of Bombay Municipal Act, 1888, for the words "nine-tenths" shall be substituted the words "nineteen-twentieths". Bom. VI of 1879. Bom. III of 1888.

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1901, Pt. V, p. 97 ; and for Proceedings in Council, *see ibid*, p. 112.

2 Vol. III of this Code, p. 1308.

3 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1901, Pt. V, p. 77 ; and for Proceedings in Council, *see ibid*, p. 112.

4 Vol. II of this Code, p. 710.

5 Vol. III of this Code, p. 975.

BOMBAY ACT No. III OF 1901.

An Act for the better management of municipal affairs in mofussil towns and cities.

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BOMBAY ACT NO. III OF 1901.[1]

[*1st April, 1901.*]

An act for the better management of municipal affairs in mofussil towns and cities.

WHEREAS it is expedient to consolidate and amend the law relating to the management of municipal affairs in cities and towns in the Bombay Presidency other than the City of Bombay ; It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. **1.** (*1*) This Act may be cited as the Bombay District Municipal Act, 1901.

Local extent. (*2*) It extends to the whole of the Presidency of Bombay, except the [2]City of Bombay.

Commencement. (*3*) It shall come into force on the first day of April, 1901.

Bom. VI of 1873. Bom. II of 1884. Repeal. **2.** (*1*) The Bombay District Municipal Acts of 1873 and 1884 are hereby repealed :

Provided that

Saving clause. (*a*) the said repeal shall not affect the validity or invalidity of anything already done under either of the said enactments ;

(*b*) all Municipalities constituted, municipal commissioners appointed or elected, committees established, limits defined, appointments, rules, orders and by-laws made, notifications and notices issued, taxes and rates imposed, contracts entered into, and suits and other proceedings instituted, under the said Acts or under any enactments thereby repealed, shall, so far as may be, be deemed to have been respectively constituted, appointed, elected, established, defined, made, issued, imposed, entered into and instituted under this Act ; and

(*c*) any enactment of the Governor of Bombay in Council, or document referring to any such repealed enactment, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Bom. II of 1899. (*2*) Of the [3]Bombay Prevention of Adulteration Act, 1899, in section 5, the

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[1] For the Statement of Objects and Reasons, *see* Bombay Government Gazette, 1899, Pt. V, p. 133 ; for Report of Select Committee, *see ibid*, 1900, p. 1 ; and for Proceedings in Council, *see ibid*, 1899, p. 216 ; *ibid*, 1900, p. 33 ; *ibid*, 1901, pp. 123, 134, 155 and 174.

Ss. 76, 77, 79, 80 and Schedule D have been extended to the cantonment of Ahmednagar subject to certain restrictions and modifications, *see* Gazette of India, 1905, Pt. I, p. 19.

[2] As to the City of Bombay, *see* the City of Bombay Municipal Act, 1888 (Bom. Act 3 of 1888), Vol. III of this Code, p. 975.

[3] *Supra*, p. 1506.

whole of sub-section (*2*), and clause (*b*) of sub-section (*3*), and in section 6, the whole of sub-section (*2*) are hereby repealed.

Definitions. **3.** In this Act and in the schedules, unless there be something repugnant in the subject or context—

(*1*) "City Municipality" shall mean any Municipality which

(*a*) is one of those specified in Schedule E, or

(*b*) has been declared under sub-section (*1*) of section 181 a City Municipality,

and which has not ceased, under sub-section (*2*) of section 181, to be a City Municipality.

(*2*) "Councillor" shall mean any person legally a member of a Municipality constituted under this Act.

(*3*) "Commissioner" shall mean the commissioner of a division appointed under the [1]Bombay Land-Revenue Code, 1879, and in Sind, the Commissioner in Sind; provided that nothing in this Act shall affect the powers of the Governor in Council, under the provisions of Act V of 1868, to delegate any of the powers of the Governor in Council under this Act to the Commissioner in Sind. Bom. V of 1879.

(*4*) "Judge" shall mean District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, Subordinate Judge, Joint Subordinate Judge, or a Judge appointed under the [2] Dekkhan Agriculturists' Relief [Acts][3], 1879 to 1895.

(*5*) "Municipal district" shall mean any local area which is at present a municipal district, and any local area which may hereafter be constituted a municipal district under section 4, if such municipal district has not ceased to exist under the provisions of the said section.

(*6*) "Land" shall include land which is built upon or covered with water.

(*7*) "Building" shall include any hut, shed, or other enclosure, whether used as a human dwelling or otherwise, and shall include also walls, verandahs, fixed platforms, plinths, door-steps, and the like.

(*8*) "Owner" shall include the person for the time being receiving the rent of lands and buildings or either of them, whether on his own account or as agent or trustee for any other person or for any society, or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant: Provided that no person receiving the rent of any land or building as agent or trustee for another person, shall be liable to do anything by this Act required to be done by the owner of such land or building which may involve expenditure on the part of such owner, unless he have funds of, or due to, the owner sufficient to pay for the same; nor shall he be subject to any

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[1] Vol. II of this Code, p. 634.

[2] Vol. I of this Code, p. 141.

[3] The word "Acts" was substituted for the word "Act" by the Bombay District Municipal Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *see infra*, p. 1642.

penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of, or due to, the owner sufficient to defray the expense of doing the act required.

(*9*) " Salaried servant of Government " shall not include a retired servant of Government in receipt of a pension, or a person in receipt of a salary from Government who is not a full-time servant of Government.

(*10*) " Official year " shall mean the year commencing on the first day of April.

(*11*) " Annual letting value " shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situated threin or thereon, might reasonably be expected to let from year to year.

(*12*) " Street " shall mean any road, footway, square, court, alley or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not ;

and shall include every vacant space, notwithstanding that it may be private property, and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon, and if it is used by any person as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

(*13*) " Public street " shall mean any street—

(*a*) over which the public have a right of way, or

(*b*) heretofore levelled, paved, metalled, channelled, sewered or repaired, out of municipal or other public funds, or

(*c*) which under the provisions of section 90 is declared by the Municipality to be, or under any other provisions of this Act becomes, a public street.

(*14*) " Tax " shall include any toll, rate, cess, fee or other impost leviable under this Act.

(*15*) " Nuisance " shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

(*16*) " Dangerous disease " shall mean cholera, plague, small-pox, and any endemic, epidemic, or infectious disease by which the life of man is endangered.

(*17*) " Vehicle " shall include bicycles, tricycles and automotor cars, and every wheeled conveyance which is used or capable of being used on a public street.

(*18*) " Public securities " shall mean —

(*a*) securities of the Government of India,

(*b*) stocks, debentures or shares in Railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council,

(*c*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India, or

(*d*) a security expressly authorised by any order which the Governor in Council makes in this behalf.

(*19*) In Sind the words "*Sindh Official Gazette*" shall be deemed to be substituted for the words "*Bombay Government Gazette*" wherever they occur in this Act.

CHAPTER II.

Constitution of Municipalities.

(*1*) *Municipal Districts.*

Declaration of municipal districts.

4. (*1*) Subject to the provisions of sections 6, 7 and 8, the Governor in Council may from time to time, by notification in the *Bombay Government Gazette*, declare any local area to be a municipal district, and may from time to time, by a like notification, extend, contract or otherwise alter the limits of any municipal district, or declare that any local area shall, from a date to be specified in the notification, cease to be a municipal district.

Limits to be specified in notification.

(*2*) Every such notification constituting a new municipal district, or altering the limits of an existing municipal district, shall clearly set forth the local limits of the area to be included in or excluded from such municipal district, as the case may be.

Erection and maintenance of boundary marks.

(*3*) It shall be the duty of the Municipality in every municipal district already existing, and of every Municipality newly constituted under this Act, and of every Municipality whose local limits are altered as aforesaid, to cause, at their own cost, to be erected or set up, if and when so required by the Collector, and thereafter to maintain, at their own cost, substantial boundary marks of such description and in such positions as shall be approved by the Collector, defining the limits or the altered limits of the municipal district subject to its authority, as set forth in the notification.

Property and rights of Municipality which has ceased to exist to vest in Government.

(*4*) When any local area ceases to be a municipal district, the Municipality constituted therein shall cease to exist, and the property and rights vested in any such Municipality shall, subject to all charges and liabilities affecting the same, vest in His Majesty, and the proceeds thereof, if any, shall be expended under the orders of the Governor in Council for the benefit of the local area in which such Municipality had jurisdiction.

Municipal districts to be periodical or permanent.

5. Municipal districts constituted under section 4 may be either periodical or permanent.

What local areas may be declared to be periodical municipal districts.

6. Any local area in which a periodical fair is held or which is visited periodically by pilgrims, together with any neighbouring local area to which the people attending such fair or the pilgrims resort whilst such fair or pilgrimage lasts, may be declared a periodical municipal district at and throughout certain specified recurring seasons.

What local areas may be declared to be permanent municipal districts.

7. (*1*) Any local area which comprises—

(*a*) a city, town or station or two or more neighbouring cities, towns and stations, with or without any village, suburb, or land adjoining thereto, or

(*b*) a village or suburb or two or more neighbouring villages and suburbs,

may be declared a permanent municipal district :

Provided that, except—

(*a*) in the case of hill-stations, or

(*b*) for exceptional reasons, which shall be clearly set forth in the proclamation under section 8 and in the notification issued under section 4,

it shall not be lawful—

(i) to include any city, town, station or suburb in a permanent municipal district with any other city, town, station or suburb from which it is separated by an extent of more than one mile of land unoccupied by houses ; or

(ii) to constitute any municipal district in any area of which the population is less than two thousand.

Naming of municipal districts comprising two or more places.

(*2*) When two or more places bearing different names are formed into one municipal district, the name of the municipal district shall be determined by the Commissioner.

Permanent municipal districts.

8. (*1*) Not less than two months before the publication of any notification declaring any local area a permanent municipal district, or altering the limits of any such district, or declaring that any local area shall cease to be a municipal district, the Governor in Council shall cause to be published in the *Bombay Government Gazette*, in English, and in at least one of the local newspapers, if any, in the language of the district in which such local area is situated, and to be posted up in conspicuous spots in the said local area in the language of the said district, a [1]proclamation announcing that it is proposed to constitute such local area a municipal district, or to alter the limits of the municipal district in a certain manner, or to declare that such local area shall cease to be a municipal district, as the case may be, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor, in writing to the Collector within two months from the date of the said

[1] For instance of such a proclamation, *see* Bombay Government Gazette, 1908, Pt. I. A., p. 21.

proclamation, and whenever it is proposed to add to or exclude from a municipal district any inhabited area, it shall be the duty of the Municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

(*2*) The Collector shall, with all reasonable despatch, forward every objection so submitted to Government.

(*3*) No such notification as aforesaid shall be issued by the Governor in Council unless the objections, if any, so submitted are, in his opinion, insufficient or invalid.

(*2*) *Municipalities.*

Constitution and incorporation of Municipalities.

9. In every municipal district there shall be a Municipality, and every such Municipality shall be a body corporate by the name of " The Municipality of—", and shall have perpetual succession and a common seal, and may sue and be sued in their corporate name.

Municipalities to consist of elected and nominated councillors.

10. (*1*) Except as is hereinafter otherwise provided, every such Municipality shall consist of—

(*a*) elected councillors ;

(*b*) nominated councillors, if any, that is to say, such persons, as from time to time

(i) are by name appointed in this behalf by, or

(ii) are executing the functions of any office from time to time notified [1] in this behalf by the Commissioner :

In specified proportions.

Provided that the number of elected councillors shall be not less than one-half of the whole number, inclusive of the president, and that not more than one-half of the nominated councillors shall be salaried servants of Government.

Failure to elect.

(*2*) Any vacancies due to failure to elect the full number of elected councillors which under this section might be elected, may, notwithstanding anything in this Act contained, be filled up by nomination by the Commissioner.

The Governor in Council may determine number of councillors ; fix proportion of elected and nominated councillors ; and make rules for regulating elections.

11. The Governor in Council shall from time to time, generally or specially for each Municipality,—

(*a*) determine [1] the number of councillors ;

(*b*) fix,[1] subject to the provisions of the last preceding section, the proportion of the councillors, if any, who shall be nominated ;

(*c*) make rules consistent with this Act, for

(*i*) fixing the dates and the time and manner of holding elections, general or casual, of councillors to be elected ;

(*ii*) prescribing the number to be elected by the rate-payers, or by sections of the inhabitants, or by public bodies or associations, if any, and the qualifications of candidates and of voters other than as hereinafter provided ;

[1] For notifications issued under this clause, *see* the list in the addenda to the list on p. cxcvi of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

(*iii*) preparing and revising the lists of voters from time to time, fixing the date after which no application for enrolment in any such list under preparation or revision shall be received, declaring the manner in which the right to vote of any undivided family, or any company or firm, or any other association or body of individuals, or any trustees of any building or land, being two or more in number, entered in such list, may be recorded and exercised, and prescribing the restrictions, if any, on the number of votes which a voter may give ;

(*iv*) determining the manner in which and the authority by whom any objection to such lists in regard to the names entered therein or omitted therefrom may be heard and decided, and to what judicial authority the appeals as to such entries and omissions shall lie ;

(*v*) prescribing the date subject to the provisions of sub-section (*1*) of section 13 for the publication of the Municipal Election Roll ;

(*vi*) regulating generally such elections.

Provision as to admission of certain qualifications.

12. Subject to the provisions of section 13 and to the disqualifications mentioned in section 15 and sub-sections (*3*) and (*6*) of section 22 as regards candidates, and in section 21 as regards voters,

(*a*) every Honorary Magistrate, and

(*b*) every Fellow and every Graduate of any University, and

(*c*) every Advocate of the High Court and every Pleader holding a Sanad from the High Court, and

(*d*) every juror and assessor,

who, for a period of not less than six months next preceding the date on which by the said rules a list of voters is required to be prepared or revised in a Municipal district for election purposes has been resident in that district, and

(*e*) every person who for the like period has been paying taxes, other than octroi or toll, imposed in that district, of an amount not less than such minimum as shall for the time being be fixed for that municipal district, by the Governor in Council in the case of City Municipalities and by the Commissioner in other cases, shall be qualified as a candidate, and to be entered in the list of voters for the said district.

Operation of lists.

13. (*1*) When, in accordance with rules framed under sub-clauses (iii) and (iv) of clause (*c*) of section 11, a list of voters has been prepared or, upon a general revision, completed, a copy thereof signed by such person as may be designated in this behalf in the rules aforesaid, shall be the Municipal Election Roll. A new Election Roll shall be published in each year on such,

date as may be prescribed by the Rules, and shall continue in operation for a period of twelve months from that day :

Provided that if a new Election Roll is not published in any year before the date prescribed, the Roll then in operation shall continue in operation until the new Roll is published.

Right to vote to depend on entry in Roll.

(*2*) At every election of councillors every person enrolled in the Municipal Election Roll as for the time being in operation under sub-section (*1*), shall be deemed to be entitled to vote, and every person not so enrolled shall be deemed to be not entitled to vote.

Constitution of Municipalities in exceptional cases.

14. (*1*) (*a*) Nothing in the three sections last preceding shall apply to any permanent municipal district at a hill station, or to any permanent municipal district to which, owing to the smallness of such district, or to the backward state or indifference of its inhabitants, or for other such exceptional reason, the Governor in Council shall, in a notification [1] setting forth such reasons and published in the *Bombay Government Gazette*, at any time declare the provisions of the said sections to be unsuitable.

(*b*) In any such municipal district the Municipality shall consist either entirely of nominated councillors, or partly of nominated and partly of elected councillors, in such proportions, and appointed or elected by such persons, in such manner, and subject to such conditions, as the Governor in Council in the notification published under clause (*a*), or in any subsequent notification published as aforesaid, shall think fit to prescribe.

(*c*) It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section ; and in the event of any notification under clause (*a*) being rescinded, the Municipality affected thereby shall, from a date to be fixed in this behalf by the Governor in Council, be constituted in accordance with the three sections last preceding.

Periodical municipal districts.

(*2*) The powers and duties conferred and imposed by this Act on Municipalities shall, in a periodical municipal district, be respectively exercised and discharged by a neighbouring Municipality nominated in this behalf by Government, or by a Municipality specially constituted for the time being and consisting of such councillors nominated in such manner as the Governor in Council directs.

Taxes, rules and by-laws in periodical municipal districts.

(*3*) If in any periodical municipal district, any tax has been or shall have been imposed, or any rule or by-law has been or shall have been made, under the provisions of this Act or any Act hereby repealed, such tax, unless and until it has been modified, suspended or abolished, shall be leviable, and such rule or by-law, unless and until it has been altered or rescinded, shall have effect, in such district, throughout each recurring season during which the district is, by virtue of a declaration under section 6, a periodical municipal district.

[1] For notifications issued under this section, *see* the addenda to the list on p. ccxcvi of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

(*3*) *Municipal Councillors.*

General disqualifications for becoming councillor.

15. (*1*) No person may be a councillor—

(*a*) who,

(i) having been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, or

(ii) having been dismissed from Government service, such dismissal having been notified as debarring him from re-employment, or

(iii) being a pleader, whose sanad has been withdrawn by the High Court,

(iv) having been removed from office under section 16,

has not, by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf, been relieved from disqualification arising on account of such sentence, or dismissal, or withdrawal of sanad or removal from office, or

(*b*) who is an uncertificated bankrupt or an undischarged insolvent, or

(*c*) who is less than twenty-one years of age, or who is of the female sex, or

(*d*) who is a Judge ;

and no person

(*e*) who is a subordinate officer or servant of a Municipality, or

(*f*) who, save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a Municipality, or in any contract or employment with, or under, or by, or on behalf of a Municipality,

may be a councillor of such Municipality :

Provided that—

a person shall not be deemed to have incurred such disqualification or to have any share or interest in any such work or in any such contract or employment, by reason only of his—

(i) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same,

(ii) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Municipality, or

(iii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Municipality may be inserted, or

(iv) holding a debenture or being otherwise interested in any loan raised by or on behalf of the Municipality, or

(v) being professionally engaged on behalf of the Municipality as a legal practitioner, or

(vi) having a share or interest in the occasional sale of any article in which he regularly trades, to the Municipality to a value not exceeding, in any one official year, five hundred rupees, or such higher amount not exceeding two thousand rupees as the Municipality with the sanction of Government may fix in this behalf, or

(vii) being a party to any agreement made with the Municipality under the provisions of [1] [section 71] or of proviso (*a*) to sub-section (*1*) of section 156.

Disabilities from continuing a councillor.

(*2*) If any councillor during the term for which he has been elected or appointed—

(*a*) becomes disqualified under sub-section (*1*), or

(*b*) acts as a councillor in any matter

(i) in which he has directly or indirectly, by himself or his partner, any such share or interest as is described in clauses (i), (ii), (iii), (vi) or (vii) of the proviso to sub-section (*1*), or

(ii) in which he is professionally interested on behalf of a client, principal or other person, or

(*c*) departs beyond the limits of the Presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) by becoming a salaried servant of Government, causes the number of nominated commissioners who are salaried servants of Government to exceed the proportion prescribed in the proviso of sub-section (*1*) of section 10, or

(*e*) not being a president or vice-president or a salaried servant of Government, fails without leave from the Municipality on that behalf to attend [2] [at least one] meeting of the Municipality for a period of four months, provided that there shall have been not less than three such meetings within such period, [3] [or having obtained such leave fails within one fortnight of the expiration thereof either to return or to obtain an extension of leave,]

he shall be disabled from continuing to be a councillor, and his office shall become vacant.

Powers of Government and of the Commis-

(*3*) If any question or dispute arises whether a vacancy has occurred under this section, the orders of the Governor in Council in the case of City Munici-

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[1] The word and figures "section 71" were substituted for "section 73" by the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *infra*, p. 1642.

[2] These words were substituted for the word "any" by the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[3] These words were added by the Bombay District Municipal Act Amendment Act, 190 (Bom. Act 3 of 1902), s. 2, *infra*, p. 1642.

palities, and of the Commissioner in other cases, shall be final for the purpose of deciding such question or dispute. sioner to decide whether vacancy has occurred.

16. The Governor in Council, if he thinks fit, on the recommendation of the Municipality, may remove any councillor elected or appointed under this Act, if such councillor has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct, or has become incapable of performing his duties as a councillor. Liability to removal from office.

17. Councillors nominated or elected at a general election under this Act shall, save as provided in the next following section, or unless they become in the meantime disabled, or are removed from office under section 16, or section 179, hold office for a term of three years, extensible by order of the Commissioner to a term not exceeding in the aggregate four years, if on any occasion the Commissioner shall think fit, for reasons which shall be notified together with the order in the *Bombay Government Gazette*, so to extend the same. Term of office.

18. In the event of the death, resignation, disqualification, disability or removal of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have held it if the vacancy had not occurred. Casual vacancies how to be filled up.

19. A person who has already been elected or appointed a councillor on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment. Re-eligibility of councillor.

20. The names of all councillors finally elected to any Municipality, as well as the names of the nominated councillors, if any, appointed thereto, shall be published, as soon as conveniently may be, in the *Bombay Government Gazette*. Publication of names of councillors in the *Bombay Government Gazette*.

(4) Municipal Elections.

21. No person who is less than twenty-one years of age shall be entitled to vote at any municipal election. General disqualifications of voters.

22. *(1)* If the validity of any election of a councillor is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Judge of the district within which the election has been or should have been held. Determination of validity of elections.

(2) The District Judge or such other Judge as may be appointed by the Governor in Council on this behalf may, after such inquiry as he deems necessary, and subject to the provisions of sub-section *(3)*, pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce Powers of Judge holding enquiry.

the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the [1]Code of Civil Procedure. The decision or order shall be conclusive. If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh one. XIV of 1882.

Declaration in case of corrupt practice by a candidate.

(*3*) (*a*) The Judge, if satisfied that a candidate has, within the meaning of sub-section (*4*), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election, and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

Scrutiny of votes and declaration in other cases.

(*b*) If in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

What is a corrupt practice.

(*4*) A person shall be deemed to have committed a corrupt practice within the meaning of the last preceding sub-section,

(i) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person,

or,

(ii) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

Candidate when deemed to have committed corrupt practice.

And a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Promise of individual profit.

EXPLANATION.—A " promise of individual profit " includes a promise for the benefit of the person himself, or of any one in whom he is interested. It does not include a promise to vote for or against any particular municipal measure.

Mere irregularities and informalities not to invalidate election.

(*5*) If the validity of the election is brought in question only on the ground of an error by the officer or officers charged with carrying out the rules made under clause (*c*) of section 11, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

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[1] *See* Act 14 of 1882, as modified up to 1st December, 1899.

(6) If the Judge sets aside an election under clause (*a*) of sub-section (3), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal district for a term of years not exceeding seven, and the Judge's decision shall be conclusive : provided, however, that such person may by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in that behalf, be at any time relieved from such disqualification. Disqualification of candidate for corrupt practice.

(5) *Presidents and Vice-Presidents.*

23. (1) Every Municipality shall be presided over by a president who shall be selected from among the councillors. Selection of president.

(2) Every president shall be either— President how appointed or when to be elected.

(*a*) appointed by the Governor in Council by name ; or

(*b*) an *ex-officio* president, that is to say, a person executing the functions of any office which the Governor in Council from time to time [1]notifies in this behalf ; or

(*c*) if the Governor in Council so directs, elected by the Municipality.

(3) There shall be a vice-president for every Municipality elected by the councillors from among their number, but if the president is appointed by the Governor in Council or is president *ex-officio*, the result of the election shall, if the Governor in Council by general or special order from time to time so directs, be subject to the approval of the Governor in Council, or of the Commissioner. Election of vice-president, subject in certain cases to confirmation.

(4) When an office has been notified under clause (*b*) of sub-section (2), the person from time to time executing the functions of that office shall be and shall continue to be president, unless and until such notification is altered or rescinded by the Governor in Council. Effect of notification of *ex-officio* president.

(5) Except in the case of a salaried servant of Government who is either an appointed or an *ex-officio* president, every president, who for a period exceeding three months, and every vice-president, who for a period exceeding fifteen days, shall absent himself from the municipal district in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted— Consequences of absence of president or vice-president without leave.

(*a*) by the Governor in Council in the case of a president appointed under clause (*a*) of sub-section (2),

(*b*) by the Municipality, in the case of an elected president or of a vice-president :

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[1]For notifications appointing *ex-officio* presidents in certain Municipalities, *see* the addenda to the list on p. ccxcvi of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

Provided that such leave to a vice-president shall be subject to the approval

(*i*) of the Governor in Council, in the case of a vice-president elected subject to the approval of the Governor in Council, or

(*ii*) of the Commissioner, in the case of a vice-president elected subject to the approval of the Commissioner.

Limit to grant of leave, and arrangements pending absence of vice-president.

(*6*) Leave under the last preceding sub-section shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section a councillor shall be elected, subject to the conditions to which the election of the vice-president so absenting himself was subject, to perform all the duties and exercise all the powers of a vice-president during the period for which such leave is granted.

Liability of president and vice-president to removal and term of office.

(*7*) Every president and every vice-president shall be removable from his office as such president or vice-president by the Governor in Council for misconduct, or neglect of or incapacity to perform his duty, and the term of office of every president, and of every vice-president, shall cease on the expiry of his term of office as councillor.

Vacancies in their office how to be filled up.

(*8*) In the event of the death, resignation or removal from office of a president other than an *ex-officio* president, or of a vice-president, or of his becoming incapable of acting in such office or having ceased to be a councillor under sub-section (*2*) of section 15, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up by the appointment or election, as the case may be, of some other councillor thereto.

Functions of presidents.

24. (*1*) It shall be the duty of the president of a Municipality to—

(*a*) preside, unless prevented by reasonable cause, at all meetings of the Municipality, and subject to the provisions of the rules for the time being in force under clause (*a*) of section 46 to regulate the conduct of business at such meetings ;

(*b*) watch over the financial and executive administration of the Municipality, and, subject to the rules of the Municipality at the time being in force, to perform such executive functions as may be performed by or on behalf of the Municipality over which he presides ;

(*c*) exercise supervision and control over the acts and proceedings of all officers and servants of the Municipality in matters of executive administration and in matters concerning the accounts and records of the Municipality ; and, subject to the rules of the Municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances ;

(*d*) furnish to the Collector, or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every

resolution passed at any meeting of the Municipality and any extract from the minutes of the proceedings of the Municipality or of any committee or other document or thing which the Collector from time to time calls for under section 173.

President in what cases to have only a casting vote.

(*2*) When the president of a Municipality is a salaried servant of Government, and is either an *ex-officio* president or has been appointed to be president by the Governor in Council, he shall not vote upon any questions which come before such Municipality for decision unless there is an equality of votes of the other councillors present for and against the proposition under consideration, in which case he shall have a casting vote.

Functions of vice-presidents.

25. It shall be the duty of the vice-president of a Municipality—

(*a*) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the Municipality and he shall when so presiding exercise the same authority as is vested in the president under [1][clause (*a*) of] sub-section (*1*) of section 24 ;

(*b*) to exercise such of the powers and perform such of the duties of the president as the president from time to time deputes to him ; and

(*c*) pending the succession, appointment, or election of a president, or during the absence of a president on leave, to exercise the powers and perform the duties of the president

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CHAPTER III.

Conduct of Business.

(*1*) *Municipal meetings.*

Provisions in regard to meetings of a Municipality.

26. The following provisions shall be observed with respect to the meetings of a municipality :—

Ordinary general meetings.

(*1*) Except in periodical Municipalities and in Municipalities at hill stations there shall be held four ordinary general meetings in each year for the disposal of general business, on or about the tenth day of the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. In Municipalities at hill stations there shall be held one ordinary general meeting on or about the tenth day of April, and not less than one other ordinary general meeting for the purpose aforesaid,

[1] These words were inserted by the Bombay District Municipal Amendment Act, 1904 (Bom. Act 4 of 1904), s. 1, *infra*, p. 1724.

in each year. In every periodical Municipality there shall be such and so many ordinary general meetings, as the president thereof shall from time to time determine. It shall be the duty of the president to fix the dates for all ordinary general meetings.

Special general meetings.

(*2*) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the councillors, call a special general meeting.

Notice to be given of meetings.

(*3*) Seven clear days' notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be circulated to the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal district. The said notice shall include any motion or proposition which a councillor shall have given written notice not less than ten days previous to the meeting of his intention to bring forward thereat, and, in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting.

Municipal meetings to be held at Municipal office.

(*4*) Every meeting of a municipality shall, except for reasons to be specified in the notice convening the meeting, be held in the building used as a municipal office by such municipality.

Every meeting how presided over in the absence of the president and the vice-president.

(*5*) Every meeting shall, in the absence of both the president and vice-president, be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (*a*) of sub-section (*1*) of section 24.

Meeting must ordinarily be open to the public.

(*6*) Every meeting shall be open to the public unless the presiding authority deems any enquiry or deliberation pending before the Municipality such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

Number of councillors required to form a quorum.

(*7*) If in a City Municipality less than one-third, and in any other Municipality less than one-half, of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such hour on the following or some other future day as he may reasonably fix, and a notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

What business to be

(*8*) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel

any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been mentioned in the notice convening such meeting, or, in the case of a special general meeting, in the written request for such meeting. The order in which any business that may be transacted or any proposition that may be discussed at any meeting in accordance with this sub-section, shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business, or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal. transacted at meetings and order of business how to be settled.

(*9*) In every City Municipality there shall be kept in English, and if the Municipality so resolve, in the vernacular language also, and in every other Municipality there shall be kept in the vernacular language, and if the Municipality so resolve in English, either in lieu of or in addition to the vernacular minutes of the names of the councillors and of the Government officers, if any, present under the provisions of sub-section (*14*), and of the proceedings at each general meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the presiding authority of such meeting, and shall at all reasonable times be open to inspection by any inhabitant of the municipal district. Minutes of proceedings to be kept.

(*10*) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority, save as provided in sub-section (*2*) of section 24, having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (*a*) of section 46. All questions to be decided by a majority of votes.

(*11*) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place. Adjournments of meetings.

(*12*) No resolution of a Municipality shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of councillors, and passed at a general meeting whereof notice shall have been given, fulfilling the requirements of sub-section (*3*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting, and the motion or proposition for the modification or cancellation of such resolution. Modification and cancellation of resolutions.

(*13*) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed for the Municipality by a Government Executive Engineer, or to any educational matter, shall be Notice of certain business to be given to the Govern-

ment Executive Engineer or Educational Inspector.

transacted at any meeting of a Municipality unless, at least fifteen days previous to such meeting, a letter has been addressed to the said Executive Engineer or to the Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

Certain Government officers may attend meetings of Municipalities.

(*14*) (*a*) The members of the Sanitary Board, and the Executive Engineer, Educational Inspector and Deputy Sanitary Commissioner of a district, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a Municipality within the district, shall have the right of being present at any meeting of such Municipality, and, with the consent of the Municipality, each of them may take part at such meeting in the discussion or consideration of any question, on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such Municipality :

Provided that the said officers shall not, unless they are members of the Municipality, be entitled to vote upon any such question.

Municipalities may require the presence of certain of the said officers at their meetings.

(*b*) If it shall appear to a Municipality that the presence of the Executive Engineer, Educational Inspector, Deputy Sanitary Commissioner or Civil Surgeon of or in the district, is desirable for the purpose aforesaid at any future meeting of such Municipality, it shall be competent to such Municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat ; and the said officer, unless prevented by sickness, or other reasonable cause, shall be bound to attend such meeting :

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative, instead of appearing thereat in person.

(*2*) *Committees.*

Managing committees.

27. (*1*) In every Municipality there shall be a committee called the managing committee, consisting of such number of councillors not exceeding nine or less than four, as may have been elected for a period not exceeding one year, in accordance with rules under clause (*a*) of section 46 :

Provided that in any municipal district where there is a Chamber of Commerce, such Chamber shall, if the Governor in Council so directs, be entitled to elect one councillor to be a member of the managing committee.

Powers of managing committees.

(*2*) The managing committee shall, subject

(*i*) to any limitations prescribed by the Municipality specially in this behalf and generally by rules made under clause (*a*) of section 46, and

(*ii*) to the provisions of Chapter XIII,

exercise all the powers of the Municipality :

Provided that no managing committee shall exercise—

(*a*) any powers in connection with any school or educational institution in respect of which a committee is appointed under section 28, or

(*b*) any powers with which any committee appointed under section 29 is vested.

School committees.

28. The Municipality may appoint, subject to such limitations as are prescribed by the rules for the time being in force under section 46 and subject also to the proviso contained in [1][section 58] a committee consisting of such councillors as they think fit, for managing all or any primary or other schools vested in or maintained by the Municipality, or for conducting the business of the Municipality in respect of any educational institutions aided by the Municipality.

Other executive committees.

29. Subject to the limitations prescribed by the rules aforesaid, the Municipality may appoint, for a period not exceeding one year, any such committee or such or so many committees consisting of such councillors as they think fit for any purpose or respectively for any of the purposes, other than those specified in section 28, for which a managing committee may, under section 27, exercise the powers of a Municipality, and may invest each committee so appointed with such of the said powers as may be necessary or expedient for the fulfilment of the purpose for which it is appointed.

Consultative committees.

30. The Municipality may from time to time appoint such or so many other committees consisting of such councillors as they think fit, and may refer to such committees for enquiry and report, or for opinion, such special subjects relating to the purposes of this Act as the Municipality shall think fit, and may at any time discontinue, or alter the constitution of, any such committee. The Municipality may direct that the report of any such committee shall be made to the managing committee, instead of to the Municipality.

When persons other than councillors may serve on committees.

31. Notwithstanding anything contained in this Act, it shall be lawful for the Municipality from time to time, by a resolution supported by not less than one-half of the whole number of councillors to appoint, as members of any committee under section 28, 29, or 30, any persons of either sex, who are not councillors, but who may in the opinion of such Municipality possess special qualifications for serving on such committee ; provided that the number of persons so appointed on any committee shall not exceed one-third of the total number of the members of such committee.

Duties, etc., of such persons.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall, save as regards the disqualification on the ground of sex, be applicable so far as may be to such persons.

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1 "Section 58" was substituted for "section 59" by the Bombay District Municipal Act Amendment Act 1903 (Bom. Act, 3 of 1902), s. 2, *infra*, p. 1642.

Casual vacancies—re-eligibility.

32. A vacancy occurring in a managing committee shall, as soon as possible, and a vacancy occurring in any other committee may be filled up by the election of a member from among the general body of councillors subject to the same provisions as those under which the member whose place is to be filled up, was elected. A councillor shall be eligible at any time for re-election as a member of any such committee notwithstanding that he has previously been a member of that committee.

When chairman to be *ex-officio*.

33. (*1*) The president or vice-president, if appointed a member of any committee, shall be *ex-officio* chairman thereof.

When no *ex-officio* chairman, Municipality may appoint chairman.

(*2*) The Municipality may appoint a chairman for every committee of which there is no *ex-officio* chairman.

When *ex-officio* or appointed chairman does not attend meeting, committee may appoint chairman of meeting.

(*3*) Every committee, of which there is an *ex-officio* chairman or a chairman appointed by the Municipality, shall, at each meeting which such chairman does not attend as chairman, appoint from its members a chairman for such meeting.

If there is no chairman *ex-officio* or appointed by the Municipality.

(*4*) Every committee, of which there is no *ex-officio* chairman or chairman appointed by the Municipality, shall appoint from time to time its own chairman from among its own members.

Procedure at meetings.

34. (*1*) The provisions of sub-sections (*4*), (*9*), (*10*) and (*14*) of section 26 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a Municipality contained in those provisions, and as if for the word "Municipality", where it occurs in the proviso to clause (*a*) of sub-section (*14*) of section 26, there were substituted the word "committee."

Committee may meet when they think proper.

(*2*) Committees may meet and adjourn as they think proper, but the chairman of the committee may, whenever he thinks fit, and shall, upon the written request of the president of the Municipality or of not less than two members of a committee, call a special meeting of such committee.

Number of members required to form a quorum at committee meetings.

(*3*) No business shall be transacted at any committee meeting unless more than one-half of the members of the committee be present thereat.

Procedure by circular.

35. (*1*) Notwithstanding anything contained in the preceding section the chairman of the committee, whenever it appears to him unnecessary to convene a meeting, may, instead of so doing, circulate a written proposition of his own, or of any other member of the committee, or of any executive officer of the Municipality, for the observations and votes of the members of the committee.

Propositions when to be sent to Government officers for remarks.

(*2*) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (*13*) of section 26, shall obtain thereupon the remarks, if any, which any Government officer, not a councillor, whose presence the Municipality would be entitled to require under the provisions of clause (*b*) of sub-section (*14*) of section 26, desires to record.

Decisions how to be taken on propositions circulated, and how to be recorded.

(*3*) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition.

(*4*) Every decision arrived at by the committee under this section shall be recorded in the minute-book kept under sub-section (*9*) of section 26.

Procedure by circular when applicable to other municipal business.

(*5*) Notwithstanding anything in this Act contained, the Governor in Council may by [1] notification authorize the adoption by any Municipality specified in such notification not being a City Municipality, of the procedure prescribed by this section, for the disposal of any business, whenever the president of such Municipality may deem it unnecessary to convene a general meeting for the purpose of such business.

Subordination of committees to instructions of Municipality and compliance with requisitions of Municipality.

36. (*1*) Every committee shall conform to any instructions that may from time to time be given to them by the Municipality; the Municipality may, at any time, call for any extract from any proceedings of any committee, and for any return, statement or account or report concerning or connected with any matter with which any committee has been authorized or directed to deal, and every such requisition shall, without unreasonable delay, be complied with by the committee so called upon.

Order subject to revision and appeal.

(*2*) Every order passed by a managing committee or by a committee appointed under section 28 or 29, other than orders under sub-section (*3*) of section 65 shall be subject to such revision, and open to such appeal, as may be required or allowed in respect thereof by any rules of the Municipality for the time being in force under section 46.

(*3*) *Delegation of powers to individuals.*

Powers, duties and

37. Any powers of duties or executive functions which may be exercised

[1] For notifications under this clause, *see* the addenda to the list on p. cxxvi of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

functions may be delegated to officers whose expenses may be paid.

or performed by or on behalf of the Municipality may be delegated, in accordance with rules to be made by the Municipality in this behalf, to the president or to the vice-president, or to the chairman of the managing, school, or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on a Chief Officer in a City Municipality under Chapter XIII or on any committee by or under section 27, 28 or 29 ; and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein.

(4) Validity of Proceedings.

Acts and proceeding of Municipality and committees not vitiated by disqualifications, etc., of member thereof.

38. (*1*) No disqualification of, or defect in the election or appointment of, any person acting as councillor, or as the president or presiding authority of a general meeting or as chairman of a committee appointed under this Act, shall be deemed to vitiate any act or proceeding of the Municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding were entitled to act.

Proceedings of meetings to be good and valid, until the contrary is proved.

(*2*) Until the contrary is proved, every meeting of the Municipality, or of a committee appointed under this Act, in respect of the proceeding whereof a minute has been made and signed in accordance with this Act shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified ; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

Vacancy not to affect Municipality's proceedings.

(*3*) During any vacancy in a Municipality or committee the continuing councillors or members may act as if no vacancy had occurred.

(5) Joint transactions with other bodies.

Joint committees of two or more municipalities or other local bodies.

39. A Municipality may from time to time—

(*a*) join with any other Municipality or with any local board, cantonment authority, sanitary board, sanitary committee or committee appointed for an area notified under Chapter XIV, or with more than one such Municipality, board, authority or committee,

(*i*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee ; and

(*ii*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance

of any joint work, and any power which might be exercised by either or any of such bodies ; and

(*iii*) in framing and modifying rules for regulating the proceedings of any such committee relating to the purpose for which the committee is appointed ; and

(*b*) enter, subject to the sanction of the Governor in Council, into an agreement with a Municipality, cantonment authority or committee appointed for an area notified as aforesaid, regarding the levy of octroi duty, whereby the octroi duties respectively leviable by the bodies so contracting, may be levied together instead of separately within the limits of the area comprising the districts subject to the control of the said bodies. Agreement for joint levy of octroi.

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the Governor in Council, or of such officer as he appoints in this behalf, shall be final.

(*6*) *Contracts.*

40 (*1*) Every Municipality shall be competent, subject to the [1][restriction] contained in sub-section (*2*), to lease, sell or otherwise transfer any moveable or immoveable property which may, for the purposes of this Act, have become vested in or been acquired by them, and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as they may consider necessary or expedient in order to carry into effect the said provisions and purposes. Competency of Municipality to lease, sell and contract.

(*2*) In the case of every lease of immoveable property for a term exceeding seven years, and of every sale or other transfer of any such property, the previous sanction of the Commissioner is required. Subject in certain cases to sanction of Commissioner.

(*3*) In the case Sanction by resolution at general meeting requisite to validity of certain contracts.

(*a*) of a lease for a period exceeding one year, or of a sale or other transfer, or contract for the purchase, of any immoveable property,

(*b*) of every contract which will involve expenditure not covered by a budget grant,

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract,

the sanction of the Municipality by a resolution passed at a general meeting is required.

(*4*) In the case of a contract for the purchase of moveable property, or for the sale of any moveable property belonging to a Municipality, if the Sanction o Municipality when

[1] "Restriction" was substituted for "restrictions" by the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *infra*, p. 1642.

requisite in other cases.

expenditure which the purchase would involve, or the value of the property to be sold as estimated in the municipal accounts, exceeds

(*a*) in the case of a City Municipality, Rs. 500,

(*b*) in the case of any other Municipality, Rs. 250,

the sanction of the Municipality is required.

Sanction by committees and individuals empowered.

(*5*) In the case of every contract not otherwise provided for in the preceding sub-sections of this section the sanction of the managing committee, or of such other committee, or of such individual as under the provisions of this Act or of the rules for the time being in force thereunder, is empowered on this behalf, is required.

Mode of executing contracts.

(*6*) Every contract entered into by or on behalf of a Municipality other than a contract to which sub-section (*5*) applies, shall be in writing, and shall be signed by the president or vice-president and two other councillors, and shall be sealed with the common seal of the Municipality. Every contract to which sub-section (*5*) applies, shall be executed by the chairman of the managing committee, or by the chairman of such other committee, or by such other individual, as is empowered in that behalf, in such manner and form as, according to the law for the time being in force, would bind such chairman or individual if such contract were executed by him on his own behalf.

Invalidity of contracts unless requirements of this section are fulfilled.

(*7*) No contract shall be binding on a Municipality in any case referred to in this section, unless all such requirements as are specified in sub-section (*2*), (*3*), (*4*) or (*5*) in respect of such case are fulfilled, and unless it is executed in accordance with the provisions of sub-section (*6*) applicable thereto.

(*7*) *Compulsory Acquisition of Land.*

Recourse to the Land Acquisition Act, 1894.

41. When there is any hindrance to the permanent or temporary acquisition, upon payment, of any land or building required for the purposes of this Act, the Governor in Council may, after obtaining possession of the same for Government under the [1]Land Acquisition Act, 1894, or other existing law, vest such land or building in the Municipality on their paying the compensation awarded, and on their repaying to Government all cost incurred by Government on account of the acquisition. I of 1894.

(*8*) *Liabilities of councillors, officers, and servants.*

Councillors to be held responsible for misapplied funds

42. Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by, gross neglect of his duty as a councillor, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of Government.

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[1] General Acts, Vol. VI, p. 10C.

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred, by or on behalf of the Municipality; the funds at the disposal of each Municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses.

Municipal funds ordinarily liable for all costs and expenses incurred.

43. (*1*) Any person who has directly or indirectly, by himself or his partner, any share or interest in any contract with, by, or on behalf of a Municipality, or in any employment with, under, by, or on behalf of a Municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such Municipality.

Officer or servant of any Municipality not to be interested in any contract with such Municipality.

(*2*) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant, and his office shall become vacant.

Effect of acquiring such interest.

(*3*) Nothing in this section shall apply to any such share or interest in any contract or employment with, under, by, or on behalf of a Municipality as under clauses (ii) and (iv) of the proviso to sub-section (*1*) of section 15, it is permissible for a person to have without his being thereby disqualified for being a councillor.

Saving clause.

44. (*a*) Any councillor, who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, under, by, or on behalf of a Municipality of which he is a member, not being a share or interest such as, under section 15, it is permissible for a person to have, without being thereby disqualified for being a councillor, and

Penalty for councillor, officer or servant of a Municipality being interested in any contract, etc., with that Municipality.

(*b*) any municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract, or except in so far as concerns his own employment as municipal officer or servant, in any employment, with, under, by, or on behalf of a Municipality of which he is an officer or servant, not being a share or interest such as under clauses (ii) and (iv) of the proviso to sub-section (*1*) of section 15 it is permissible for a person to have without being thereby disqualified for being a councillor,

shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees.

45. (*a*) Every person holding the post of councillor or of an officer or servant of a Municipality, and every person authorized by the Municipality to collect or recover on behalf of the Municipality any tax, who

Penalties imposed by the Indian Penal Code.

(i) accepts or obtains, or agrees to accept, or attempts to obtain for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or for bearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or dis-

favour to any person, or for rendering, or attempting to render, any service or dis-service to any person, with the Municipality or with any public servant, or with any municipal committee, officer or servant, as such, or with Government, or

(ii) does any act for which, or omits to do any act for the omission of which, if he were a public servant within the meaning of the [1] Indian Penal Code, he would be liable to punishment, or to an enhanced punishment, under that Code ; and XLV of 1860.

(*b*) every person who

(i) falsely pretends that he holds such post or is so authorized as aforesaid, and in such assumed character, does or attempts to do any act under colour of the character so assumed, or

(ii) does any such act or is guilty of any such omission, to or in relation to, any person holding such post or authorized as aforesaid with such intention or knowledge or in such circumstances as would, if the person holding such post or authorized as aforesaid were a public servant within the meaning of the [1] Indian Penal Code, render the person so doing that act or so omitting as aforesaid, liable to punishment or enhanced punishment under that Code, XLV of 1860.

shall, if no punishment is, in such behalf, provided elsewhere in this Act, be liable to the punishment to which for the like offence he would, if every person holding such post or authorized as aforesaid were a public servant within the meaning of the [1] Indian Penal Code, be liable under that Code.

CHAPTER IV.

Rules and By-Laws.

Municipalities to make rules; regulating the conduct of business ; fixing the functions of the president and the establishment;

46. Every Municipality shall, as soon as conveniently may be after the constitution thereof, make and may from time to time alter or rescind rules, but not so as to render them inconsistent with this Act,

(*a*) regulating the conduct of their business and the delegation of any of their powers or duties and, subject to the provisions of section 27, the appointment and constitution of committees ;

(*b*) determining

(i) the executive functions to be performed by the president, vice-president, the chairman of any committee, and, subject to the provisions of Chapter XIII, in City Municipalities by the chief officer, and the delegation of any of their powers or duties to such persons.

[1] *See* Act 45 of 1860, as modified up to 1st April, 1903.

(*b*)) the staff of officers and servants to be employed by the Municipality and the respective designations, duties, salaries, fees and absentee or other allowances of such officers and servants, and the powers and duties delegated to them under section 37 ;

(*c*) generally for the guidance of their officers and servants in all matters relating to the municipal administration ; — for general guidance of municipal servants;

(*d*) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security ; — fixing the amount of the security to be furnished;

(*e*) subject to the provisions of section 184, determining the mode and conditions of appointing, punishing or dismissing any * [1] officer or servant, and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any * [1] officer or servant ; — determining mode of appointing, etc., municipal servants; delegating power to appoint, etc.;

(*f*) regulating the grant of leave to officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave ; — granting leave to municipal servants;

(*g*) regulating the period of service of all officers and servants, and determining the conditions under which such officers and servants, or any of them, shall receive pensions, gratuities, or compassionate allowances on retirement, or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities, or compassionate allowances ; and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty ; — fixing pensions, etc.;

(*h*) authorizing the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules, to any pension or provident fund which may be established by the Municipality or with the approval of the Municipality by the said officers and servants ; — contributing to provident funds;

(*i*) prescribing, subject to the provisions of Chapter VII, the taxes to be levied in the municipal district for municipal purposes, the grounds on which exemptions are to be recognized, the conditions on which and the extent to which remissions may be granted, and the system on which refunds are to be allowed and paid, in respect of such taxes, and the limits of the charges or payments to be fixed in lieu of any tax under section 71, and the fees to be charged for licenses or permissions granted under section 70, and the times at which and the mode in which the same shall be levied or recovered or shall be — Prescribing the taxes, etc., to be levied for municipal purposes;

[1] The word "such" was repealed by s. 2 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

payable, and prescribing the fees for notices demanding payments due on account of any tax, and for the execution of warrants of distress, and the rates to be charged for maintaining any livestock distrained, and designating the persons authorized to receive payment of any sums so leviable ;

for writing off amounts due and remitting fees.

(*j*) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable, and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the managing committee :

Provided that—

Approval required to rules.

(*a*) No rule made, or alteration or rescission of a rule made, under this section shall have effect unless and until it has been approved, in the case of City Municipalities, by the Governor in Council, or in other cases by the Commissioner.

Proviso as to officers transferred from or to the service of Government.

(*b*) If an officer serving or having served under a Municipality has been or is transferred from or to the service of the Government, or is partly employed by the Government and partly by a Municipality, the Municipality shall contribute to his pension and leave allowances to the extent required by the rules in force for the time being, made by the Governor General in Council in this behalf.

Notice required in certain cases of dismissal.

(*c*) The Municipality shall not, unless with the assent of Government, dispense with the services of any such officer transferred from the service of Government to the service of the Municipality or employed partly by Government and partly by the Municipality, or finally dismiss from the service of the Municipality any officer transferred from the service of the Municipality to the service of Government, without giving Government six months' previous notice.

Power to suspend, reduce or abolish any existing tax.

47. Subject to the requirements of clause (*a*) of the proviso to section 46, every Municipality may, except as otherwise provided in clause (*b*) of the proviso to section 74, at any time for any sufficient reason, suspend, reduce or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax under the provisions of clause (*i*) and of the first clause of the proviso to section 46.

Power to make by-laws ;

48. (*1*) Every Municipality may from time to time, with the previous sanction, in the case of City Municipalities, of the Governor in Council, or in other cases of the Commissioner, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act,

or markets and slaughter-houses, etc., etc. ;

(*a*) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein ; and for fixing the rents and other charges to be levied, for the use of any of them which belong to the Municipality ;

(*b*) prescribing the conditions on or subject to which, and the circumstances in which, and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the Municipality, for licensing, regulating and inspecting certain businesses;

(i) as a slaughter-house,

(ii) as a market or shop for the sale of animals intended for human food, or of meat, or of fish, or as a market for the sale of fruit or vegetables,

(iii) for any of the purposes mentioned in sub-section (*l*) of section 151, and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom;

(*c*) prohibiting the stalling or herding of horses, camels, cattle, donkeys, sheep or goats, otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health; regulating the stalling of cattle, etc.,

(*d*) (i) for the inspection of milch-cattle; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk-sellers; for regulating dairies and cattle-sheds;

(ii) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter; milk-stores, etc.

(*e*) for the inspection of weights and measures under section 143; for inspection of weights and measures.

[1] [(*ee*) for defining the standard weights and measures used within the municipal district;]

(*f*) for the registration of births, deaths and marriages, and the taking of a census within the municipal district and for enforcing the supply of such information as may be necessary to make such registration or census effective; for registration of births, etc.;

(*g*) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead; regulating the disposal of the dead;

(*h*) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of sections 144 and 145; for enforcing supply of information as to epidemics;

(*i*) for enforcing the supply of such information by inhabitants of the municipal district as may be necessary to ascertain their respective liabilities to any tax imposed therein; for enforcing information as to liability to municipal taxation;

[1] This clause was inserted by s. 3 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act, 4 of 1904). *infra*, p. 1724.

octroi by-laws;

(*j*) fixing octroi limits and stations; providing for the exhibition of tables of octroi; regulating, subject to any general or special orders which the Governor General in Council may make in this behalf, the system under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for use or consumption within the municipal district; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained, and the minimum amount for which any claim to refund may be made;

for protecting water;

(*k*) for conserving and preventing injury to sources and means of water-supply and appliances for the distribution of water whether within or without the limits of the municipal district; and regulating all matters and things connected with the supply and use of water and the turning on or returning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works and of pipes and fittings in connection therewith, whether the property of the Municipality or not;

regulating public baths, etc.;

(*l*) regulating the use of public bathing and washing places within municipal limits;

for conservancy;

(*m*) regulating sanitation and conservancy and the disposal of carcasses of dead animals;

regulating structures and buildings;

(*n*) regulating the condition on which permission may be given for the temporary occupation, or the erection of temporary structures on, public streets or for projections over public streets, and regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings, for the purpose of securing stability and the prevention of fires, and for purposes of health;

for providing for streets;

(*o*) for preventing the erection of buildings without adequate provisions being made for the laying out and location of streets;

for ensuring ventilation;

(*p*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means of securing a free circulation of air;

requiring qualified surveyors in City Municipalities;

(*q*) in a City Municipality, prescribing the qualifications of surveyors or persons by whom plans required under section 96 are to be prepared, or of plumbers; for licensing persons to be surveyors or plumbers, and fixing the fees chargeable for such licenses; and for modifying the provisions of, or revoking such licenses; and prohibiting any alterations or repairs or fittings to water or drainage-pipes or house-connections being carried out or made, except by such persons;

control of drains;

(*r*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water-closets, privies,

latrines, urinals, and drainage or sewerage works of every description, whether the property of the Municipality or not ;

(*s*) determining the information and plans to be required by the Municipality under sections 91 and 96 ; requiring information and plans in certain cases ;

(*t*) prohibiting the transit of any vehicles of such form, construction, weight or size, or laden with such machinery or other unwieldy objects as may be deemed likely to cause injury to the roadway, or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians, along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the road-way, number of lights and assistants, and other general precautions as may be prescribed, either generally in such by-laws, or in special licenses to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws : for controlling unwieldy traffic, and

provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the Municipality in conspicuous places at or near both ends of such street or portion of a street ;

(*u*) generally for the regulation of all matters relating to municipal administration. regulating municipal administration.

And every Municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for the infringement of any such by-law. Fine may be imposed for infringement of by-laws.

(*2*) Every Municipality shall, before making any by-law under this section, publish in such manner as shall in their opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the by-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified. Publication of drafts of proposed by-laws.

(*3*) When any by-law made by a Municipality is submitted to the Governor in Council or Commissioner for sanction, a copy of the notice published as aforesaid and of every objection or suggestion so made, shall be submitted before for the information of the Governor in Council or Commissioner along with the said by-law. Objections and suggestions to be submitted to Government.

49. The rules and by-laws for the time being in force shall be kept open for public inspection at the municipal office at all reasonable times, and printed copies thereof and of this Act in the vernacular language of the district, and in City Municipalities in English as well as in the vernacular, shall be kept on sale at cost price. Rules and by-laws to be printed and sold.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

Power to acquire and hold property.

50. (*1*) Every Municipality may acquire and hold property both moveable and immoveable, whether within or without the limits of the Municipal District.

Property vested in the Municipality.

(*2*) All property of the nature hereinafter in this section specified, and not being specially reserved by the Governor in Council, shall be vested in and belong to the Municipality, and shall, together with all other property, of what nature or kind soever, not being specially reserved by the Governor in Council, which may become vested in the Municipality, be under their direction, management, and control, and shall be held and applied by them as trustees, subject to the provisions and for the purposes of this Act; that is to say—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depôts, and public buildings of every description.

(*b*) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduit, tunnels, pipes, pumps and other water-works, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well.

(*c*) All public sewers and drains, and all sewers, drains, tunnels, culverts, gutters, and water-courses in, alongside, or under any street, and all works, materials and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal matter, or filth, or rubbish of any kind collected by the Municipality from the streets, houses, privies, sewers, cesspools, or elsewhere.

(*d*) All public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto.

(*e*) All lands transferred to them by the Secretary of State for India in Council, or by gift or otherwise, for local public purposes.

(*f*) All public streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

Municipal fund.

51. All moneys received by or on behalf of the Municipality by virtue of this or any other Act; all taxes, tolls, and other imposts, fines, fees, penalties paid to or levied by them under this Act; all proceeds of land or other property sold by the Municipality, and all rents accruing from their land or property; as also all interest, profits and other moneys accruing by gifts or

transfers from the Secretary of State for India in Council or private individuals or otherwise, shall constitute the Municipal Fund, and shall be held and dealt with in a similar manner to the property mentioned in the last preceding section :

Provided that—

(*a*) nothing in this section, or in the last preceding section, shall in any way affect any obligations accepted by or imposed upon any Municipality by any declarations of trust executed by or on behalf of such Municipality, or by any scheme settled under the [1]Charitable Endowments Act, 1890, for the administration of any trust : Provision as to special trusts.

VI of 1890.

(*b*) a Municipality may, subject to the conditions that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on them by sections 54, 55 or by or under sections 61, or 72, or Chapter XII, credit to a separate heading in the municipal accounts any portion of the municipal fund received by them specially for, or devoted by them to, the purposes of schools or dispensaries or of waterworks or fire-brigades, or other such purposes as the Commissioner in this behalf approves, and, provided that there shall be credited to such special heading such sums only as expressly relate to the object for which the fund designated by such heading was created, the Municipality may apply the sums so credited exclusively to the respective objects to which they are so credited. When special trusts may be created.

52. All property vested in the Municipality under this Act, and all funds received by them in accordance with the provisions of this Act, and all sums accruing to them under the provisions of any law for the time being in force, shall be applied, subject to the provisions and for the purposes of this Act, within the limits of the municipal district : Municipal property and funds how to be applied.

Provided always that it shall be lawful for the Municipality, with the sanction of the Governor in Council or any officer duly authorized by him in this behalf,—

(*a*) to incur expenditure beyond the said limits,—

(*i*) in the acquisition of land, or

(*ii*) in the construction, maintenance or repair of works,

for the purpose of obtaining a supply of water required for the inhabitants of the municipal district, or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals beyond the said limits, or for drainage works, or for

[1] General Acts, Vol. V, p. 376.

any other purpose calculated to promote the health, safety, or convenience of the inhabitants of the said district; or

(*b*) to make a contribution towards expenditure incurred by any other Municipality or in any area subject to the authority of a local board or cantonment authority, or Sanitary Board or Committee, or of a Committee appointed under section 188 for an area notified under section 187, or incurred out of any public funds for measures affecting the health, instruction or convenience of the public and calculated to benefit the residents within the limits of the contributing Municipality; or

(*c*) to create scholarships tenable outside the limits of the municipal district:

Provided further, that nothing in this section, or in any other provision of this Act, shall be deemed to make it unlawful for a Municipality, when with such sanction as aforesaid they have constructed works beyond the limits of the said district for the supply of water or for drainage as aforesaid,

(*a*) to supply or extend to, or for the benefit of, any person or buildings or lands in any place[1] * * * *, whether such place is or is not within the limits of the said district, any quantity of water not required for the purposes of this Act within the said district, or the advantages afforded by the system of such drainage-works, on such terms and conditions, with regard to payment and to the continuance of such supply or advantages, as shall be settled by agreement between the Municipality and such person or the occupier or owner of such buildings or lands, or

(*b*) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes, or other works necessary for the purpose of such supply or for the extension of such advantages.

Power to deposit and invest surplus funds.

53. (*1*) It shall be lawful for the Municipality to deposit at interest with the Bank of Bombay, or such other bank as may hereafter be appointed to conduct the business of His Majesty's Treasury at Bombay, or with the sanction of the Governor in Council in any bank in the Presidency of Bombay, any surplus funds in their hands which may not be required for current charges, and to invest such funds in public securities in the name of the Municipality, and from time to time to dispose of such securities as may be necessary.

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[1] The words "throughout the line of country in which such works are situate, or contiguous to such line of country" were repealed by s. 1 of the Bombay District Municipal Act, 1903 (Bom. Act 3 of 1903), *infra*, p. 1698.

(*2*) All surplus funds over and above what may be required for current expenses shall, unless deposited or invested as provided for in sub-section (*1*), be deposited in the local Government Treasury or such other place of security as may be sanctioned in the rules of the said Municipality. Surplus not so deposited or invested how to be dealt with.

CHAPTER VI.

Obligatory and Discretional Functions of Municipalities.

54. It shall be the duty of every Municipality to make reasonable provision, Duties of Municipalities.

(1) for the following matters within the municipal district under their authority, namely:

(*a*) lighting public streets, places and buildings ;

(*b*) watering public streets and places ;

(*c*) cleansing public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or not; removing noxious vegetation; and abating all public nuisances ;

(*d*) extinguishing fires, and protecting life and property when fires occur ;

(*e*) regulating or abating offensive or dangerous trades or practices ;

(*f*) removing obstructions and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or belong to His Majesty ;

(*g*) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead ;

(*i*) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams, and the like ;

(*j*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply when such supply or additional supply can be obtained at a reasonable cost ;

(*k*) naming streets and numbering houses;

(*l*) registering births and deaths;

(*m*) public vaccination;

(*n*) suitable accommodation for any calves, cows or buffaloes required within the municipal district for the supply of animal lymph;

(*o*) establishing and maintaining public hospitals and dispensaries, and providing public medical relief;

(*p*) establishing and maintaining primary schools;

(*q*) printing such annual reports on the municipal administration of the district as the Governor in Council by general or special orders requires the Municipality to submit;

(*r*) paying the salary and the contingent expenditure on account of such police or guards as may be required by the Municipality for the purposes of this Act or for the protection of any municipal property and providing such accommodation as may be required by Government under section 77 of the [1] Bombay District Police Act, 1890, Bom. IV of 1890.

and subject to such reasonable provisions as aforesaid,

(2) for the following special matters, namely :

(*a*) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the outbreak of, or to suppress and prevent the recurrence of the disease;

(*b*) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal district.

Provision for lunatics and lepers.

55. Every Municipality shall also, out of the municipal property and fund, make payments at such rates as the Governor in Council from time to time by general or special orders prescribes, for the maintenance and treatment either in the municipal district or at any asylum, hospital or house, whether within or without such district, which the Governor in Council declares by notification to be suitable for such purpose,

(*a*) of lunatics, not being persons for whose confinement and order under Chapter XXXIV of the [2]Code of Criminal Procedure, 1898, is in force, and V of 1898.

(*b*) of [3]lepers,

habitually resident within, or under any enactment for the time being in force removed from, such district:

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[1] Vol. III of this Code, p. 1337.

[2] *See* Act 5 of 1898, as modified up to 1st April, 1903.

[3] For the law in force in British India generally dealing with the control of lepers, *see* Act 3 of 1898, General Acts, Vol. VI.

Provided that in any case in which under any law for the time being in force the charges of the lodging, maintenance, clothing, medicine and care of any such lunatic or leper are recoverable, or have been recovered, from any estate applicable to his maintenance or from any person legally bound to maintain him, the Municipality may apply to any Magistrate empowered under such law to take action for the recovery of such charges, and such Magistrates shall thereupon take such action, if he has not already taken it, and shall, out of any sums recovered under such law, cause to be paid to the credit of the Municipality the amount of any payments made by the Municipality in respect of that person under this section.

Discretionary powers of expenditure of Municipalities.

56. Municipalities may, at their discretion, provide out of the said property and fund, either wholly or partly, for

(*a*) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, including the land requisite for the construction of buildings or curtilages thereof, to abut on such streets;

(*b*) constructing, establishing or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharmshalas, rest-houses and other public buildings;

(*c*) furthering educational objects other than those set forth in sub-clause (*p*) of [1][section 54];

(*d*) planting and maintaining roadside and other trees;

(*e*) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;

(*f*) making a survey;

(*g*) the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or Honorary Magistrate, or any portion of any such charges;

(*h*) arrangements for the destruction or the detention and preservation of such dogs within the municipal district as may be dealt with under section 49 of the [2] Bombay District Police Act, 1890;

Bom. IV of 1890.

(*i*) securing or assisting to secure suitable places for the carrying on of the offensive trades mentioned in sub-section (*l*) of section 151;

(*j*) supplying, constructing and maintaining, in accordance with a general system approved by the Sanitary Board, receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the Municipality;

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[1] "Section" was substituted for "clause" by s. 2 of the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] Volume III of this Code, p. 1337.

(*k*) establishing and maintaining a farm or factory for the disposal of sewage ;

(*l*) any other measure not specified in section 54, likely to promote the public safety, health, convenience or education ; and

(*m*) with the previous concurrence, in the case of City Municipalities, of the Commissioner, or in other cases of the Collector, any public reception, ceremony, entertainment or exhibition within the municipal district.

Arrangements purporting to be binding permanently or for a term of years.

57. When a Municipality have entered into any arrangement, or made any promise, purporting to bind themselves or their successors, for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the Municipality or their successors, with the sanction in the case of a City Municipality, of the Governor in Council, and in the case of any other Municipality of the Commissioner, to cancel such arrangement or promise, or to discontinue or to diminish such yearly contribution, provided that they shall have given at least twelve months' notice of their intention so to do to the manager or managers of such institution.

Management of public institutions maintained by Municipalities to vest in them.

58. The management, control and administration of every public institution exclusively maintained out of municipal property and funds shall vest in the Municipality by which it is maintained :

Provided that the extent of the independent authority of any Municipality in respect of public education, and their relations with the Government Educational Department shall from time to time be prescribed by the Governor in Council.

CHAPTER VII.

MUNICIPAL TAXATION.

(*1*) *Imposition of taxes.*

Taxes which may be imposed.

59. Subject to any general or special orders which the Governor General in Council may make in this behalf, any Municipality

(*a*) after observing the preliminary procedure required by [1][section 60], and

(*b*) with the sanction of the Governor in Council in the case of City Municipalities, and in other cases of the Commissioner, and subject to such modifications or conditions as under section 61 the Governor in Council or the Commissioner, respectively, in according such sanction, deems fit,

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[1] Substituted for "section 61" by s. 2 of the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *infra*, p. 1642.

may impose, for the purposes of this Act, any of the following taxes: that is to say,

(i) a rate on buildings or lands, or both, situate within the municipal district;

(ii) a tax on all or any vehicles, boats, or animals used for riding, draught or burden, kept for use within the said district;

(iii) a toll on vehicles, and animals used as aforesaid, entering the said district, but not liable to taxation under the clause last preceding;

(iv) an octroi on animals or goods, or both, brought within the octroi limits for consumption or use therein;

(v) a tax on dogs kept within the said district;

(vi) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

(vii) a general sanitary cess for the construction or maintenance, or both construction and maintenance, of public latrines, and for the removal and disposal of refuse;

(viii) a water-rate or water-rates, for water supplied by the Municipality, which may be imposed in the form of a rate assessed on buildings and lands, or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of case or of any individual case;

(ix) a lighting tax;

(x) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal district;

(xi) any other tax to the nature and object of which the approval of the Governor in Council shall have been obtained prior to the selection contemplated in sub-clause (i) of clause (*a*) of section 60;

Provided that

(*a*) no tax imposed as aforesaid, other than a special sanitary cess or a water-rate, shall, without the express consent of Government, be leviable in respect of any building or part of any building, or of any vehicle, animal or other property, belonging to His Majesty and used solely for public purposes, and not used or intended to be used for purposes of profit, and no toll shall be leviable for the passage of troops or the conveyance of Government stores or of any other

Government property, or for the passage of Military or Police Officers on duty, or the passage or conveyance of any person or property in their custody;

(*b*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the Municipality have

(i) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(ii) issued either severally to the persons to be charged, or generally to the inhabitants of the district or part of the district to be charged, with such cess, one month's notice of the intention of the Municipality to perform such cleansing and to levy such cess;

(*c*) the Municipality in lieu of imposing separately any two or more of the taxes described in clauses (i), (vii), (viii), and (ix) * * * [1] may impose a consolidated tax assessed as a rate on buildings or lands, or both, situate within the municipal district.

Procedure of Municipality preliminary to imposing tax.

60. Every Municipality before imposing a tax shall observe the following preliminary procedure:

(*a*) they shall, by resolution passed at a general meeting,

(i) select for the purpose one or other of the taxes specified in section 59;

(ii) prepare rules for the purposes of clause (*i*) of section 46 prescribing the tax selected;

and shall by such resolution and in such rules specify

(iii) the class or classes of persons or of property, or of both, which the Municipality desire to make liable, and any exemptions which they desire to make;

(iv) the amount for which, or the rate at which, it is desired to make such classes liable;

(v) all other matters which the Governor in Council may so require to be specified.

(*b*) When such resolution has been passed, the Municipality shall publish the form of rules so prepared with a notice in the form of Schedule A prefixed thereto.

(*c*) Any inhabitant of the municipal district objecting to the imposition of the said tax, or to the amount or rate proposed, or to the class of persons or property to be made liable thereto, or to any exemptions proposed, may within one month from the publication of the said notice send his objection in writing to the Municipality, and the Municipality shall take all such objections into consideration,

[1] The words and figure "of sub-section (1)" were repealed by s. 4 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

or shall authorise a committee to consider the same and report thereon, and, unless they decide to abandon or to modify the proposed tax in accordance with such objections, shall submit the same with their opinion thereon, together with the notice and rules aforesaid, in the case of a City Municipality, to the Governor in Council, and in the case of any other Municipality to the Commissioner.

Power to sanction modify and impose conditions.

61. The Governor in Council, or the Commissioner, as the case may be, may either refuse to sanction the rules submitted, or may return them to the Municipality for further consideration, or if no objection, or no objection which is in his opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either—

(*a*) without modification, or

(*b*) subject

(i) to such modifications not involving an increase of the amount to be imposed, or

(ii) to such conditions as to the application within the municipal district to any purpose or purposes of this Act specified in such conditions, of the whole or any part of the proceeds of such tax,

as he deems fit.

Publication of sanctioned rules with notice.

62. All rules sanctioned under section 61 with all modifications subject to which the sanction is given, shall be published by the Municipality in the district for which they are prescribed, together with a notice reciting the sanction and the date and serial number thereof, and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the Municipality in accordance with all conditions, if any, subject to which under section 61 the sanction was given :

Provided that

(*a*) a tax leviable by the year

(i) shall not come into force except on one of the following dates, *viz.*, the first day of April—the first day of July—the first day of October—the first day of January—in [1] [any year], and,

(ii) if it comes into force on any day other than the first of April, it shall be leviable by the quarter, till the first day of April then next ensuing ;

(*b*) on or before the day on which a notice is issued under this section, the Municipality shall publish such further detailed rules as may be

[1] "Any year" was substituted for "the official year on which such notice is published" by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

required, and as may have been approved by the Governor in Council or by the Commissioner, as the case may be, under the first clause of the proviso to section 46, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof, shall be payable ;

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

(*2*) *Assessment of and liability to rates.*

Preparation of an assessment-list.

63. (*1*) When a rate on buildings or lands or both is imposed, the Municipality shall cause an assessment-list of all buildings, or lands, or buildings and lands in the municipal district to be prepared, containing

(*a*) the name of the street or division in which the property is situated ;

(*b*) the designation of the property, either by name or by number, sufficient for identification ;

(*c*) the names of the owner and occupier, if known ;

(*d*) the annual letting value or other valuation on which the property is assessed ; and

(*e*) the amount of the tax assessed thereon.

Power to inspect.

(*2*) For the purpose of making such assessment on property as aforesaid, the Municipality may from time to time appoint any person or persons, whether councillors or not, and whether remunerated or not ; and any person or persons so appointed may for such purpose make an inspection of any such property.

Returns to be furnished.

(*3*) On the requisition of the Municipality or of such person, the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribe with his signature—

(*a*) as to the name and place of abode of the owner or occupier or of both ;

(*b*) as to the dimensions of such building or land and the annual letting value or other valuation thereof.

Publication of notice of assessment list.

64. When the assessment-list has been completed the Municipality shall give public notice thereof, and of the place where the list or a copy thereof may be inspected : and every person claiming to be either owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising

65. (*1*) The Municipality shall at the time of the publication of such assessment-list give public notice of a time, not less than one month thereafter, when they will proceed to revise the valuation and assessment : and in all cases in which any property is for the time assessed or the assessment is

increased, they shall also give notice thereof to the owner or occupier of the property, if known. assessment list.

(*2*) All objections to the valuation and assessment shall be made to the Municipality before the time fixed in the notice, by application in writing, stating the grounds on which the valuation and assessment are disputed, and all applications so made shall be registered in a book to be kept by the Municipality for the purpose. Objections how to be made.

(*3*) The managing committee, or any committee or committees to which the Municipality delegate the powers and functions of the managing committee in this behalf, or any officer of Government to whom, with the permission of the Commissioner, the Municipality delegate, and they are hereby empowered so to delegate, the powers and functions of the managing committee in this behalf shall, after allowing the applicant an opportunity of being heard in person or by agent, Hearing of objections.

(*a*) investigate and dispose of the objections,

(*b*) cause the result thereof to be noted in the book kept under sub-section (*2*), and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment-list.

(*4*) When all objections made under this section have been disposed of, and all amendments required by sub-section (*3*) have been made in the assessment-list, the said list shall be authenticated by the signatures of the Chairman and at least one other member of the managing committee or, if the Municipality have delegated the powers and functions of the managing committee in this behalf to any other committee or to an officer of Government, by the signatures of not less than two members of such committee or of the officer aforesaid, and the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein. Authentication of list.

(*5*) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property specified therein, or to the agents of such persons, and a notice that it is so open shall be forthwith published. Custody and inspection of list.

(*6*) Subject— Authenticated list how far conclusive.

(*a*) to such alterations as may thereafter be made therein, under the provisions of the next following section, and

(*b*) to the result of any appeal made under section 86,

the entries in the list so authenticated and deposited shall be accepted as conclusive evidence,

(i) for the purposes of all municipal taxes, of the annual letting value or other valuation of all buildings and lands to which such entries respectively refer, and

(ii) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon throughout the official year to which such list relates.

Amendment of assessment-list.

66. (*1*) The Municipality may at any time alter the said list by inserting the name of any person whose name ought to have been inserted, or by inserting any property which ought to have been inserted, or by altering the valuation of or assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, after giving notice to any person interested in the alteration, of a time, not less than one month from the date of service of such notice, at which the alteration is to be made.

Objections how dealt with.

(*2*) Every objection made by any persons interested in any such alteration, before the time fixed in the notice, and in the manner provided by sub-section (*2*) of the last preceding section, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

(*3*) Every alteration made under this section shall, subject to the result of an appeal under section 86, have the same effect as if it had been made on the earliest day in the current official year in which the circumstances justifying the alteration existed.

New assessment-list need not be prepared every year.

67. (*1*) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Municipality may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(*2*) But the provisions of sections 64, 65 and 66 shall be applicable every year as if a new assessment-list had been completed at the commencement of the official year.

Tax from whom primarily leviable.

68. Every tax imposed in the form of a rate on buildings or lands or on both, shall be leviable primarily from the actual occupier of the property upon which the said taxes are assessed, if he is the owner of the buildings or land or holds them on a building or other lease from the Secretary of State for India in Council or from the Municipality, or on a building lease from any person. Otherwise the said tax shall be primarily leviable as follows, namely :

(*a*) if the property is let, from the lessor ;

(*b*) if the property is sublet, from the superior lessor ;

(*c*) if the property is unlet, from the person in whom the right to let the same vests :

Recovery from occupiers.

Provided that on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the buildings or lands in respect of which it is due, as bears to the whole amount due the same ratio, which the rent annually

payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater :

Remedy of occupier in such case.

Provided further, that for any sum paid by, or recovered from, any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum.

Remission of tax in case of vacancies : when obligatory ;

69. (*1*) When any building or land which is assessed to a rate payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year, or throughout the period in respect of which any such instalment is payable, the Municipality shall remit or refund not less than two-thirds of the amount of the rate, or of the cess or instalment of the cess, as the case may be :

Provided that no such remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Municipality, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

when discretional.

(*2*) When any such building or land as aforesaid

(*a*) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(*b*) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(*c*) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value, the Municipality may remit or refund such portion, if any, of the rate or instalment as they may think equitable.

Burden of proof on claimant.

(*3*) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

Explanatory clause.

(*4*) For the purposes of this section a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

(*3*) *Power to charge Fees.*

Municipality may charge fees for certain licenses.

70. (*1*) When any license is granted by the Municipality under this Act, or when permission is given by them for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the Municipality, the Municipality may charge a fee for such license or permission.

Market and other fees.

(*2*) The Municipality may also charge such fees as may be fixed by by-laws under clause (*a*) of sub-section (*1*) of section 48 for the use of any such places mentioned in that sub-section, as belong to the Municipality.

(4) Special Provisions relating to certain Taxes.

Fixed charges and agreements or payment in lieu of taxes for water supplied.

71. (*1*) The Municipality may, instead of imposing a water-rate, or in individual cases, of levying a rate imposed in respect of the supply of water belonging to the Municipality to, or for use in connection with, any private lands or buildings,

(*a*) fix at rates not exceeding such as shall be specified in the rules in force under section 46, charges for such supply according to the quantity used, as ascertained by measurement,

(*b*) arrange with any person, on his application, to supply on payment, periodical or otherwise, water belonging to the Municipality in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade, manufacture or otherwise, on such terms and subject to such conditions as they shall fix by agreement with such person :

Provided that—

(*a*) the meters, connection-pipes and all other works necessary for and incidental to such supplies, and all future repairs, extensions and alterations of such works shall be under the control of the Municipality, and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the Municipality, be defrayed by the persons liable in respect of such supplies, and

(*b*) all such supplies of water shall be, and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof, and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 48.

Power to fix a special rate in lieu of special sanitary cess.

(*2*) When the Municipality have made provision for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, they may, instead of levying in respect thereof any special sanitary cess imposed under this chapter, fix a special rate, and the dates and other conditions for periodical payments thereof, which shall be determined either,

(i) in accordance with the rules for the time being in force under section 46 or

(ii) by written agreement with the person who would have been otherwise liable for the cess, provided that, in fixing the amount, proper regard be had to the probable cost to the Municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(*3*) When the Municipality have imposed a tax on vehicles or animals kept for use within the municipal district, they may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire, for the payment

of a lump sum, for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

Recovery of sums claimed under this section.

(*4*) Every sum claimed by the Municipality as due under sub-section (*1*) as a charge fixed by agreement or otherwise on account of water-supply, or as expenses to be defrayed such as are referred to in that sub-section, or as a special rate under sub-section (*2*) or as a lump sum payable under sub-section (*3*), shall for the purposes of Chapter VIII be deemed to be, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under the said chapter:

Provided that nothing in this section shall affect the right or powers of the Municipality to contract with any person to supply for use beyond the limits of the municipal district, at such rates and on such conditions as the Municipality may think fit, any quantity of water belonging to the Municipality but not required for the purposes of this Act.

Taxes on pilgrims may be assigned in part to local boards.

72. If any tax imposed under this Act is a tax on pilgrims resorting periodically to a shrine within the limits of a municipal district, the Commissioner may require the Municipality of such district to assign and pay to the district local board, or to the táluka local board having authority in the táluka in which such municipal district is situate, or partly to the said district local board and partly to the said táluka local board, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said board or boards, within the areas respectively, under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

Power of Government to suspend levy of objectionable taxes.

73. If it shall at any time appear to the Governor in Council, on complaint made or otherwise, that any tax, leviable by a Municipality, is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interests of the general public, he may require the said Municipality, within such period as he shall fix in this behalf, to take measures for removing any objection which appears to him to exist to the said tax, and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of the Governor in Council, he may, by notification in the *Bombay Government Gazette*, suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

The Governor in Council may at any time, by a like notification, rescind any such suspension.

Power of Government to require Municipalities to

74. Whenever it appears to the Governor in Council that the balance of the municipal fund of any Municipality is insufficient for meeting the expenditure incurred under section 175 or for the performance of any duties in respect of which they shall have been declared under section 178 to have committed default, the Governor in Council may by notification require the Municipality

impose taxes.

to impose, within the municipal district, any such tax specified in the notification as may be imposed under section 59 if no such tax is at the time imposed therein, or to enhance any existing tax in such manner or to such extent as the Governor in Council considers fit, and the Municipality shall forthwith proceed to impose or enhance in accordance with the requisition such tax under the provisions of this chapter, as if a resolution of the Municipality had been passed for the purpose under section 60 :

Provided that

(*a*) the Governor in Council shall take into consideration any objection which the Municipality or any inhabitant of the municipal district may make against the imposition or enhancement of such tax,

(*b*) it shall not be lawful for the Municipality to abandon or modify or to abolish such tax when imposed, and

(*c*) the Governor in Council may at any time cancel or modify any requisition made by him under this [1][section], and the levy of the tax or the enhancement except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

(*5*) *Octroi and Tolls.*

Octroi by-laws to be submitted with proposal for imposition of octroi.

75. Every Municipality when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (*j*) of section 48, after observing the requirements of sub-sections (*2*) and (*3*) of that section.

Power to examine articles liable to octroi.

[2]**76.** (*1*) Every person bringing into, or receiving from beyond, the octroi limits of a municipal district, any article on which octroi is payable shall, when required by an officer authorized in this behalf by the Municipality, and so far as may be necessary for ascertaining the amount of tax chargeable,

(*a*) permit that officer to inspect, examine and weigh and otherwise deal with the article ; and

(*b*) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to the article.

Power to search where octroi is leviable.

(*2*) If any person bringing into, or receiving from beyond, the octroi limits of a municipal district in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the Municipality in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate or such officer of the

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1 "Section" was substituted for "sub-section" by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

2 Ss. 76, 77, 79, 80 and Schedule D have been extended to the Cantonment of Ahmednagar subject to certain restrictions and modifications, *see* Gazette of India, 1905, Pt. I, p. 19.

Municipality as the Governor in Council appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Presentation of bills for octroi.

[1]**177.** (*1*) Every officer demanding octroi by the authority of the Municipality shall tender to every person introducing or receiving any article on which the tax is claimed, a bill specifying the article taxable, the amount claimed, and the rate at which the tax is calculated.

Penalty for evasion of octroi.

(*2*) If goods passing into a municipal district are liable to the payment of octroi, then every person who, with the intention to defraud the Municipality, causes or abets the introduction of, or himself introduces or attempts to introduce within the octroi limits of the said district, any such goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the value of such octroi or to fifty rupees, whichever may be greater.

Tables of tolls to be shown on demand.

78. Every Municipality imposing any toll under this Act, shall cause to be kept at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules, including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments, and it shall be the duty of every person authorized to demand payment of a toll, to show such table, on the request of any person on whom such demand is made.

Power to seize vehicle or animal on non-payment of octroi or toll.

[1]**179.** (*1*) In the case of non-payment on demand of any octroi or of any toll leviable by a Municipality, the person appointed to collect such octroi or toll may seize any article on which the octroi is chargeable or any vehicle or animal on which the toll is chargeable, or any part of its burden, which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal, or article seized, a list of the property together with a written notice in the Form of Schedule D that the said property will be sold as shall be specified in such notice.

Power to sell property seized at once.

(*2*) When any article seized is subject to speedy and natural decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such article may inform the person in whose possession it was that it will be sold at once, and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

Release of property on payment.

(*3*) If at any time before the sale has begun, the person whose property has been so seized tenders at the municipal office the amount of all expenses incurred, and of the octroi or toll payable, the Municipality shall forthwith release the property seized.

Sale.

(*4*) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such octroi or toll and the expenses incidental to the seizure, detention and sale.

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[1] *See* second footnote on preceding page.

Surplus how dealt with.

(*5*) The surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Municipality in writing within six months next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made shall be the property of the Municipality.

Power to keep account-current with firm or public body in lieu of levying octroi on introduction of goods.

[1]80. The Municipality, if they think fit, instead of requiring payment of octroi, due from any mercantile firm or public body, to be made at the time when the articles in respect of which it is leviable are introduced within the octroi limits of the municipal district, may at any time direct that an account-current shall be kept on behalf of the Municipality of the octroi so due from any such firm or body as the Municipality specify in this behalf. Every such account shall be settled at intervals not exceeding one month, and such firm or public body shall make such deposit or furnish such security as the Municipality or any committee or officer authorized by them in this behalf, shall consider sufficient to cover the amount which may at any time be due from such firm or body in respect of such dues. Every amount so due at the expiry of any such interval shall, for the purposes of Chapter VIII, be deemed to be, and shall be, recoverable in the same manner as an amount claimed on account of any tax recoverable under the said chapter.

Collection of octroi by one public body on behalf of others.

81. When any agreement such as is referred to in clause (*b*) of section 39 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary, for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of this Act relating to octroi shall apply in the same way, as if the limits so established were wholly comprised within the area subject to the control of the body by which they are so established, and the collections made and the costs thereby incurred shall, subject to the provisions of section 39, be divided between the funds respectively subject to the control of the bodies so entering into the agreement, in such proportions as shall have been determined in the said agreement.

CHAPTER VIII.

Recovery of Municipal Claims.

Presentation of bill for taxes.

82. (*1*) When any amount,

(*a*) which, by or under any provisions of this Act, is declared to be recoverable in the manner provided by this chapter, or

[1] *See* second footnote on p. 1574, *supra*.

(*b*) which, not being leviable under sub-section (*1*) of section 79, or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal district,

shall have become due, the Municipality shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof, a bill for the sum claimed as due.

Contents of bill.

(*2*) Every such bill shall specify—

(*a*) the period for which, and

(*b*) the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of—

(i) the liability incurred in default of payment, and of

(ii) the time within which an appeal may be preferred as hereinafter provided against such claim.

If bill not paid within fifteen days, notice of demand to issue.

(*3*) If the sum for which any bill has been presented as aforesaid is not paid into the municipal office, or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the Municipality may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule B, or to the like effect.

In what cases warrant may issue.

83. (*1*) If the person liable for the payment of the said sum does not, within fifteen days from the service of such notice of demand, either—

(*a*) pay the sum demanded in the notice, or

(*b*) show cause to the satisfaction of the Municipality, or [1] [of] such officer as the Municipality by rule may appoint in this behalf, or in a City Municipality [1] [of] the Chief Officer, if any, why he should not pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 86 against the demand,

such sum with all costs of the recovery may be levied under a warrant caused to be issued by the Municipality in the form of Schedule C or to the like effect, by distress and sale of the moveable property of the defaulter.

Warrant by whom to be signed.

(*2*) Every warrant issued under this section shall be signed by the president of the Municipality causing the same to be issued, or in the case of a City Municipality by the chairman of the managing committee, or by an officer to whom the Municipality have delegated their powers under section 37 or by the Chief Officer, if any.

Power of entry under

(*3*) It shall be lawful for any municipal officer to whom a warrant issued under sub-section (*2*) is addressed, if the warrant contains a special order

[1] The word "of" was substituted for "to" in both places where it occurs in s. 83 (*1*) (*b*) by s. 5 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

special order.

authorizing him in this behalf, but not otherwise, to break open, at any time between sunrise and sunset, any outer or inner door or window of a building, in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance. Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention, and has given such women an opportunity to remove.

Warrant how to be executed.

(*4*) It shall also be lawful for such officer to distrain, wherever it may be found, any moveable property of the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely :

(*a*) The following property shall not be distrained :—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) the tools of artizans,

(iii) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood.

(*b*) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate in value to the amount recoverable under the warrant, and if any articles have been distrained which in the opinion of a person authorized by or under sub-section (*2*) to sign a warrant, should not have been so distrained, they shall forthwith be returned.

(*c*) The officer shall on seizing the property forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure, a written notice in the form of Schedule D that the said property will be sold as shall be specified in such notice.

Sale of goods distrained.

84. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the president or chairman or officer by whom the warrant was signed, shall at once give notice to the person in whose possession the property was when seized, to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Application of proceeds of sale.

(*2*) If not sold at once under sub-section (*1*), the property seized or a sufficient portion thereof may, unless the warrant is suspended by the person who signed it, or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the

warrant, sold by public auction under the orders of the Municipality, and the proceeds, or such part thereof as shall be requisite, shall be applied in discharge of the sum due and of all such incidental cost as aforesaid.

Surplus, if any, how dealt with.

(*3*) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person from whose possession the property was taken, but if the same be claimed by written application to the Municipality within one year from the date of the [1] [notice], a refund thereof shall be made to such person. Any sum not claimed within one year from the [1] [date] of such notice shall be the property of the Municipality.

Fees and costs chargeable.

85. Fees for—

(*a*) every notice issued under sub-section (*3*) of section 82,

(*b*) every distress made [2] [under sub-section (*4*) of section 83], and

(*c*) the costs of maintaining any live-stock seized under [3] [the said sub-section],

shall be chargeable at the rates respectively specified in such behalf in the rules of the Municipality, and shall be included in the costs of recovery to be levied under [4] [section 83].

Appeals to Magistrates.

86. Appeals against any notice of demand issued under sub-section (*3*) of section 82, may be made to any Magistrate or Bench of Magistrates by whom, under the directions of the Governor in Council, or of the District Magistrate, such class of cases is to be tried.

But no such appeal shall be heard and determined unless—

(*a*) the appeal is brought within fifteen days next after service of the notice of demand complained of; and

(*b*) an application in writing, stating the grounds on which the claim of the Municipality is disputed, has been made to the Municipality as follows, that is to say:

(i) in the case of a rate on buildings or lands, within the time fixed in the notice given under section 65 or 66 of the assessment or alteration thereof, according to which the bill is prepared,

(ii) in the case of any other claim for which a bill has been presented under sub-section (*1*) of section 82 within fifteen days next after the presentation of such bill; and

(*c*) the amount claimed from the appellant has been deposited by him in the municipal office.

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[1] The words "notice" and "date" respectively were substituted for the words "sale" in each place by s. 6 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

[2] These words were inserted by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[3] "The said sub-section" was substituted for "this section" by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[4] "Section 83" was substituted for "section 84" by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

Liability of land, buildings, etc., for rates.

87. All sums due on account of any tax imposed in the form of a rate on lands or buildings or on both, mentioned in section 68, shall, subject to prior payment of land revenue, if any, due to [1] [His Majesty] thereupon, be a first charge upon the building or land, in respect of which such tax is leviable, and upon the moveable property, if any, found within or upon such building or land, and belonging to the person liable for such tax or taxes:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due for more than one year or for a period during which such occupier was not in occupation.

Suspension of power to recover by distress and sale.

88. The Governor in Council may at any time by notification suspend the operation of sections 83 and 84 in any municipal district, in which there is not a City Municipality, and from such date as shall be fixed in this behalf in the notification, every amount due on account of any tax theretofore recoverable under the said sections, shall be recoverable on application to a Magistrate, in the manner provided in sub-section (*2*) of section 161 for the recovery of such fines as are therein referred to, and not otherwise.

Receipts to be given for all payments.

89. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving the same.

CHAPTER IX.

MUNICIPAL POWERS AND OFFENCES.

(*1*) *Powers in respect of Streets.*

Power regarding streets, etc.

90. (*1*) It shall be lawful for the Municipality to lay out and make new public streets, and to construct tunnels and other works subsidiary to the same, and to widen, open, enlarge, or otherwise improve any such streets, and to turn, divert, discontinue, or stop up any such streets, and, subject to the provisions of sub-section (*2*) of section 40, to sell any such land, theretofore used or acquired by the Municipality for the purposes of such streets, as may not be required for any public street or for any other purposes of this Act.

(*2*) In laying out or making, or in turning, diverting, widening, opening, enlarging, or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the Municipality may purchase the land necessary for the houses and buildings to form the said street, and, subject to the provision contained in sub-section (*2*) of section

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[1] "His Majesty" was substituted for "the Secretary of State for India in Council" by s. 2 of the Bombay Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

40, may sell and dispose of the same in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as they may think fit.

Power to require repair of streets.

(*3*) When the Municipality consider that in any street, not being a public street, or in any part of such street, within the municipal district, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the Municipality may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

and to declare such streets public.

(*4*) After such work has been carried out by such owners or, as provided in section 156, by the Municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the Municipality, to be a public street.

Power to declare any street a public street subject to objections by the owners.

(*5*) A Municipality may, at any time, by notice fixed up in any street or part of a street not maintainable by the Municipality, give intimation of their intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the Municipality may, by notice in writing put up in such street, or such part, declare the same to be a public street.

New streets.

91. (*1*) Every person intending to lay out or make any new street shall give notice in writing thereof to the Municipality, and shall furnish plans and sections, showing the intended level, means of drainage, direction, and width of such street, if required by the Municipality to do so, and the level, means of drainage, direction, and width of every such street shall be fixed or approved by the Municipality.

Power of Municipality to pass orders.

(*2*) Before passing orders under sub-section (*1*), the Municipality may either issue,

(*a*) a provisional order directing that, for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) a demand for further particulars.

(*3*) If

Right to proceed in certain cases.

(*a*) within one month from the receipt of the notice given under sub-section (*1*) the Municipality have neither

(i) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (*1*) with regard to level, means of drainage, direction and width of the street, nor

(ii) under sub-section (*2*), issued any provisional order or demand for further particulars, or if

(*b*) the Municipality, having issued such demand for, and having received, in accordance with the demand and with the by-laws in force in this behalf, such further particulars, have issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice, and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

Penalty.

(*4*) Whoever lays out, makes or builds upon any such street, either without giving the notice required by sub-section (*1*), or, except in accordance with the provisions of sub-section (*3*), without awaiting, or otherwise than in accordance with, the instructions issued by the Municipality, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to two hundred and fifty rupees, and the Municipality may cause any street so laid out or made to be altered, and any building erected in such street contrary to their directions to be altered or removed, and the expense thereby incurred shall be paid to them by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*2*) *Powers to regulate Building, etc.*

Setting back projecting buildings.

92. (*1*) If any part of a building projects beyond the regular line of a public street either as existing or as determined upon for the future, or beyond the front of the building on either side thereof, the Municipality may,—

(*a*) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(*b*) if the projecting part is not such external structure as aforesaid, then, whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down,

require by written notice either that the part, or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed, or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. And the portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the Municipality.

Acquisition of land which is

(*2*) If any land, not vested in the Municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other such external structure, the

Municipality after giving the owner of the land not less than fifteen clear days' written notice of their intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same : and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the Municipality. within the regular line of a street and open or occupied only by platforms, etc.

(*3*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 160, shall be paid by the Municipality to the owner of any land added to a street under sub-section (*1*) or acquired under sub-section (*2*), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Municipality under either of the said sub-sections, provided that no such compensation shall be payable in cases to which section 119 applies. Compensation payable by the Municipality.

93. The Municipality may, upon such terms as they think fit, allow any building to be set forward for improving the line of any public street in which such building is situated. Setting forward to regular line of street.

94. (*1*) The external roofs and walls of buildings erected or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable materials, except with the written consent of the Municipality, which may be given either specially in individual cases, or generally in respect of any area specified therein. Roofs and external walls of buildings not to be made of inflammable materials.

(*2*) The Municipality may at any time, by written notice, require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the Municipality. Power to require removal of roof and wall if inflammable.

(*3*) Whoever without such consent as is required by sub-section (*1*) makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (*2*) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with a fine which may extend to twenty-five rupees, and with a further fine which may extend to ten rupees for every day on which the offence is continued, after the date of the first conviction. Penalty.

95. No building shall hereafter be built upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the Municipality, or into some stream or river, or into the sea, or some cesspool, or other suitable place which may be approved of by the Municipality. Level of buildings.

96. (*1*) Before beginning to erect any building, or to alter externally or add to any existing building, or to reconstruct any projecting portion of a building in respect of which the Municipality is empowered by section 92 to enforce Notice of new buildings.

a removal or set-back, the person intending so to build, alter, or add shall give to the Municipality notice thereof in writing, and shall furnish to them, at the same time if required by a by-law or by a special order to do so,

(*a*) the sanad, if any, in force relating to the site of such proposed building, issued under section 10 of [1] Bombay Act IV of 1868 or received under section 133 of the [2] Bombay Land-Revenue Code, 1879, or other enactment relating to the survey of lands in towns and cities, and Bom. V of 1879.

(*b*) a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Municipality, and all information they may require regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets.

Power of Municipality to pass orders.

(*2*) The Municipality may issue such orders not inconsistent with this Act as they think proper with reference to the work proposed in such notice and may either give permission to erect or alter or add to the building according to the plan and information furnished, or may impose in writing such conditions as to level, drainage, sanitation, materials, or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation, or with reference to the location of the building in relation to any street existing or projected, as they think proper, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to their satisfaction.

Or to suspend the work or to require further particulars.

(*3*) Before issuing any orders under sub-section (*2*) the Municipality may, within one month from the receipt of such notice, either issue,

(*a*) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) may demand further particulars.

Right to proceed in certain cases.

(*4*) A building proposed in a notice given under sub-section (*1*) may be proceeded with in such manner, as may have been specified in such notice, as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, that is to say :—

(*a*) in case the Municipality, within one month from the receipt of the notice given under sub-section (*1*), have neither

(*i*) passed orders under sub-section (*2*) and served notice thereof in respect of the intended work ;

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[1] Rep. by Bom. Act 5 of 1879.

[2] Vol. II of this Code, p. 631.

nor

(*ii*) issued under sub-section (*3*) any provisional order or any demand for further particulars;

(*b*) in case the Municipality having issued such demand for and having received in accordance with the by-laws in force in this behalf, such further particulars, have issued no further orders within one month from the receipt of such particulars:

Provided that no person, who becomes entitled under this sub-section to proceed with any intended work of which notice is required by sub-section (*1*), shall commence such work after the expiry of the period of one year from the date on which he first becomes entitled so to proceed therewith.

(*5*) Whoever begins or makes any building or alteration or addition without giving the notice required by sub-section (*1*), or without furnishing the documents or affording the information above prescribed, or except as provided in sub-section (*4*), without awaiting, or in any manner contrary to, such legal orders of the Municipality as may be issued under this section, or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees: and the Municipality may

(*a*) direct that the building, alteration, or addition be stopped,

and

(*b*) by written notice, require such building, alteration or addition to be altered or demolished, as they may deem necessary.

(*6*) The Municipality or any officer deputed by them may at any time inspect the erection of any building without giving notice of their or his intention to do so, and [1]* * at any time during the erection of a building or the execution of any such work as aforesaid, or at any time not later than one month after being informed in writing by the person responsible for giving a notice under sub-section (*1*) that the erection of the building, or the execution of any such work as aforesaid, has been completed, may by written notice specify any matter in respect of which the erection of such building, or the execution of such work, may be in contravention of any provision of this Act or of any by-law made under this Act at the time in force, and require the person erecting or executing, or who has erected or executed, such building or work, or, if the person who has erected or executed such building or work is not at the time of notice the owner thereof, then the owner of such building or work, to cause anything done contrary to any such provision or by-law to be amended, or to do anything which by any such provision or by-law he may be required to do but which has been omitted.

[1] The words "they may" were repealed by s. 7 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

EXPLANATION.—The expression " to erect a building " throughout this chapter includes

(*a*) any material alteration, enlargement or reconstruction of any building,

(*b*) the conversion into a place for human habitation of any building not originally constructed for human habitation,

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(*d*) the conversion of two or more places of human habitation into a greater number of such places,

(*e*) such alterations of the internal arrangements of a building as affect its drainage, ventilation or other sanitary arrangements, or its security or stability, and

(*f*) the addition of any rooms, buildings or other structures to any building,

and a building so altered, enlarged, reconstructed, converted, or added to, is, throughout this chapter, included under the expression " a new building."

Regulation of huts.

97. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this act comes into operation, without giving previous notice to the Municipality; and the Municipality may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the Municipality may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to them may seem necessary. If any hut or shed or range or block be built without giving such notice to the Municipality or otherwise than as required by the Municipality, the Municipality may give written notice to the owner or builder thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Municipality may think fit.

Improvement of huts.

98. (*1*) Whenever the Municipality are of opinion that any huts or sheds, whether used as dwellings or stables or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are by reason

(*a*) of insufficient ventilation or of the manner in which such huts or sheds are crowded together, or

(*b*) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(*c*) of the impracticability of scavenging,

attended with risk of disease to the inhabitants or the neighbourhood, they shall cause a notice to be affixed to some conspicuous part of each such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the Municipality for that purpose, to take down and remove such hut or shed, or to execute such operations as the Municipality may deem necessary for the avoidance of such risk.

(*2*) In case any such owner or occupier shall refuse or neglect to take down and remove such huts or sheds, or to execute such operations within the time appointed, the Municipality may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as they may deem necessary to prevent such risk.

(*3*) If such huts or sheds be pulled down by the Municipality, the Municipality shall cause the materials of each hut or shed to be sold separately, if such sale can be effected, and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner be unknown or the title disputed, shall be held in deposit by the Municipality until the person interested therein shall obtain the order of a competent Court for the payment of the same :

Provided always that in case any huts or sheds, existing at the time when the land on which they are situate first became part of a municipal district, should be pulled down under this section by order of the Municipality, or in pursuance of their notice, compensation shall further be made to the owner or owners thereof, and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 160.

(*3*) *Powers connected with Drainage, etc.*

Municipal control over drains, etc.

99. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools, within the municipal district shall be under the survey and control of the Municipality.

(*2*) All covered sewers and drains, and all cesspools, whether public or private, shall be provided by the Municipality or other persons to whom they severally belong, with proper traps, or other coverings or means of ventilation, and the Municipality may by written notice call upon the owner of any such covered sewers, drains, or cesspools to make provision accordingly.

Powers for making drains.

100. (*1*) In order to carry out any drainage scheme it shall be lawful for a Municipality to carry any drain, sewer, conduit, tunnel, culvert, pipe or water-course through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal district.

(*2*) The Municipality, or any officer appointed by them for such purpose, may enter upon and construct any new drain in the place of an existing drain in any land wherein any drain vested in the Municipality has been already constructed, or may repair or alter any drain vested in the Municipality.

(*3*) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall, in case of dispute, be ascertained and determined in the manner provided in section 160, shall be paid by the Municipality to any person who sustains damage by the exercise of such power.

Sufficient drainage of houses.

101. (*1*) If any building or land be at any time undrained, or not drained to the satisfaction of the Municipality, the Municipality may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as they think necessary for the drainage of such building or land into

(*a*) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(*b*) a covered cesspool to be provided by such owner.

New buildings not to be erected without drains.

(*2*) It shall not be lawful newly to erect any building, or to re-build any building, or to occupy any building newly erected or re-built, unless and until—

(*a*) a drain be constructed of such size, materials and description, at such level, and with such fall, as shall appear to the Municipality to be necessary for the effectual drainage of such building ;

(*b*) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may appear to the Municipality to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land and of effectually flushing the drain of the said building and every fixture connected therewith.

(*3*) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place legally set apart for the discharge of drainage, situated at a distance not exceeding fifty feet from such building ; but if there is no such drain or place within that distance, then such drain shall empty into such cesspool as the Municipality direct.

Power of owners and occupiers of buildings or lands to drain into municipal drains.

102. The owner or occupier of any building or land within the municipal district shall be entitled to cause his drains to empty into the sewers of the Municipality, provided that he first obtains the written permission of the Municipality, and that he complies with such conditions as the Municipality prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the Municipality and drains which are so vested.

How right to carry drain

103. (*1*) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain, to be constructed

through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Municipality. through land or into drain belonging to other persons may be obtained.

(*2*) The Municipality thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in their opinion insufficient, by an order in writing authorise the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to them to be adequate and equitable. Such right how and on what conditions to be authorised by Municipality.

(*3*) Every such order shall be a complete authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner or occupier of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner or occupier reasonable notice in writing, to enter upon the land specified in the said order with assistants and workmen at any time between sunrise and sunset, and, subject to all the provisions of this Act, to do all such work as may be necessary— Written order of municipal authority for execution of necessary work.

(*a*) for the construction or connection of the drain, as may be authorised by the said order,

(*b*) for renewing, repairing or altering the same, as may be necessary from time to time, or

(*c*) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

104. In executing any work under section 103, as little damage as possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall Work how to be carried out.

(*a*) cause the work to be executed with the least practicable delay ;

(*b*) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work ; and

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

105. If the owner of any land into, through or under which a drain has been carried under section 103 whilst such land was unbuilt upon, shall at any sub- Rights of owner of land

through which drain is carried in regard to subsequent building thereon.

sequent time desire to erect a building thereon, the Municipality shall, if they sanction the erection of such building, by written notice require the owner or occupier of the building or land for the benefit of which such drain was constructed to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as they may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Provision of privies, etc.

106. (*1*) In case the Municipality shall be of opinion that any privy or cesspool, or additional privies, or cesspools, should be provided in or on any building or land, or in any municipal district in which, with the approval of the Sanitary Board, a water-closet system has been introduced, that water-closets should be substituted for the existing privies in or on any building or land, or that additional water-closets should be provided therein or thereon, the Municipality may by written notice call upon the owner of such building or land to provide such privies, cesspools or water-closets as the Municipality may deem proper.

(*2*) The Municipality may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals as the Municipality may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(*3*) The Municipality may by written notice require the owner or occupier of any land upon which there is a privy, to have such privy shut out, by a sufficient roof, and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as they may direct any privy door or trap door which opens on to any street, and which they deem to be a nuisance.

Cost of altering, repairing and keeping in proper order privies, etc.

107. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools within municipal district shall, unless constructed at the cost of the Municipality, be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the Municipality may by written notice require such owner to alter, repair, and put the same in good order in such manner as they think fit.

(*2*) The Municipality may by written notice demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the Municipality is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Power to close existing private drains.

108. When any building or land within the municipal district has a drain communicating with any cesspool or sewer, the Municipality, if they consider that such drain, though it may be sufficient for the drainage of such building or land, and though it may be otherwise unobjectionable, is not adapted to the general sewerage of the district, may close such drain, and such cesspool

or sewer, whether it is or is not on land vested in the Municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Municipality may do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorisedly constructed, rebuilt or unstopped.

109. The Municipality may by written notice require that any such sewer, drain, privy, water closet, house-gullies or cesspool on any land within municipal limits, constructed, rebuilt or unstopped—

(*a*) after such land became part of a municipal district, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or by-laws of the Municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as they may deem fit, by the person by whom it was so constructed, rebuilt or stopped, and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, house-gully or cesspool, whether he does or does not receive such notice or does or does not comply therewith shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

Encroachments on municipal drains.

110. (*1*) Whoever, without the written consent of the Municipality first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in the Municipality, shall be punished with fine which may extend to twenty-five rupees, and the Municipality may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as they may think fit.

(*2*) No building shall be newly erected or rebuilt over any sewer, drain, culvert or gutter vested in the Municipality, without the written consent of the Municipality, and the Municipality may by written notice require the person who may have erected or rebuilt such building to pull down or otherwise deal with the same as they may think fit.

Inspection of drains, etc.

111. (*1*) The Municipality or any officer appointed by them for such purposes may, subject to the restrictions of this Act, inspect any sewer, drain, privy, water-closet, house-gully, or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

Expense of inspection when to be borne by the Municipality.

(*2*) The expense of such inspection, and of causing the ground to be closed and made good as before, shall be borne by the Municipality, unless the sewer, drain, privy, water-closet, house-gully or cesspool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment, or of any by-laws of the Municipality in force at the time, in which case such expenses shall be paid by the owner of such sewer, drain, privy, water-

closet, house-gully or cesspool and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Municipality may execute certain works under this sub-chapter without allowing option to persons concerned of executing the same.

112. (*1*) The Municipality may, if they think fit, cause any work of the nature to which this sub-chapter applies, to be executed by municipal or other agency under their own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

Expenses in such cases by whom to be paid.

(*2*) The expenses of any work so done shall be paid by the person aforesaid, unless the Municipality shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

(*3*) Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of private buildings or lands shall, if supplied, constructed or erected at the expense of the Municipality, be deemed to be municipal property, unless the Municipality shall have transferred their interest therein to the owner of such buildings or lands.

(*4*) *Powers regarding external structures, etc.*

Permission necessary for certain projections.

113. (*1*) The Municipality may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies, or rooms, to project from any upper storey thereof, at such height from the surface of the street as the Municipality may fix by by-laws from time to time, and to an extent not exceeding four feet beyond the line of the plinth or basement wall, and may prescribe the extent to which, and the conditions under which, roofs, eaves, weather-boards, [1][shop-boards] and the like may be allowed to project over such streets.

(*2*) Any such owner or occupier putting up any such projections as aforesaid without such permission or in contravention of such orders, shall be punished with fine which may extend to twenty-five rupees, and if any such owner or occupier fails to remove any such projection as aforesaid in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

Removal of projections.

(*3*) The Municipality may by written notice require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction

[1] These words were inserted by s. 8 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

which, whether erected before or after the site of such building became part of a municipal district, shall have been erected or placed against or in front of such building, and which

(*a*) overhangs or juts into, or in any way projects or encroaches upon, any public street, so as to be an obstruction to safe and convenient passage along such street, or which

(*b*) projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street, so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof:

Provided always that the Municipality shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district, or after such date with the written permission of the Municipality, make reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 160.

Troughs and pipes for rain water.

114. The Municipality may by written notice require the owner of every building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as they may think fit, so that it shall not fall upon the persons passing along the street.

Fixing of brackets, etc., to houses.

115. The Municipality may erect or fix to the outside of any building, brackets for lamps to be lighted with oil or gas, or subject to the provisions of the [1]Indian Electricity Act, 1889, for lamps to be lighted with electricity or otherwise, or subject to the provisions of the [2]Indian Telegraph Act, 1885, as amended by subsequent enactments, for telegraph wires or telephonic wires, for the conduct of electricity for locomotive purposes, or such pipes as they may deem necessary for the proper ventilation of sewers and water-works, and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said building or any others in the neighbourhood.

XIII of 1889.

XIII of 1885.

Naming streets and numbering houses.

116. (*1*) The Municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end, corner, or entrance to every street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(*2*) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the Municipality, and any owner or occupier of any building who shall not at his own expense

[1] *See* now the Indian Electricity Act, 1903 (3 of 1903), General Acts, Vol. VII.

[2] General Acts, Vol. VI.

keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

Penalty for defacing building, etc.

117. Any person

(*a*) who without the consent of the owner or occupier, affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence or pale, or

(*b*) who without such consent as aforesaid writes upon, soils, defaces or marks any such building, wall, board, fence or pale with chalk or paint or in any other way whatsoever,

shall be punished with fine which may extend to twenty rupees.

Removal and trimming of hedges, trees, etc.

118. The Municipality may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street, that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet, and to cut down, lop, or trim all trees or shrubs which in any way overhang, endanger, or obstruct, or which they deem likely to overhang, endanger, or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well, or other provision for water-supply as to pollute, or be likely to pollute, the water thereof.

(*5*) *Powers for promotion of Public Health, Safety and Convenience.*

Ruinous or dangerous buildings.

119. (*1*) If any building, or anything affixed thereon, be deemed by the Municipality to be in a ruinous state or likely to fall, or in any other way dangerous to any inhabitant of such building or of any neighbouring building, or to any occupier thereof, or to passengers, the Municipality shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers ; all expenses incurred by the Municipality under this sub-section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Action to be taken on default by owner or occupier.

(*2*) The Municipality shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require, and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Municipality shall cause all or so much of such building or thing, as they shall think necessary, to be taken down, repaired, or otherwise secured :

Proviso if danger is not imminent.

Provided always that if the danger be not of hourly imminence, it shall be at the discretion of the Municipality instead of themselves causing a hoard or fence to be put up, to issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner

or occupier failing to put up within two days from the service of such notice a hoard or fence which the Municipality consider sufficient in the circumstances of the case, the Municipality shall at once cause such hoard or fence to be put up and thereafter proceed as provided in sub-sections (*1*) and (*2*).

Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

120. (*1*) The Municipality may at any time by written notice require that the owner of, or any person who has the control over, any well, stream, channel, tank or other source of water-supply, shall, whether it is private property or not,

(*a*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*b*) within a reasonable time to be specified in the notice, cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*c*) in such manner as the Municipality prescribe, protect any such source of water-supply from pollution by surface drainage, or

(*d*) within twenty-four hours of such notice, repair, protect or enclose in such manner as the Municipality approve, any such source of water-supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Municipality dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same, or shall

(*e*) desist from using and from permitting others to use for drinking purposes any such source of water-supply which not being a stream in its natural flow, is proved to the satisfaction of the Municipality to be unfit for drinking ; or

(*f*) if notwithstanding any such notice under clause (*e*) such use continues and cannot in the opinion of the Municipality be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the Municipality consider sufficient to prevent such use, such source of water-supply as aforesaid ;

(*g*) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Municipality consider is injurious to health or offensive to the neighbourhood.

Remedy on non-compliance with directions issued.

(*2*) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time required by or under the provisions of sub-section (*1*), the Municipality may, and if in their opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice, and all the expenses incurred therein by the Municipality shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same

manner as an amount claimed on account of any tax recoverable under Chapter VIII :

Provided that in the case of any well or private steam or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Municipality or necessarily incurred by such owner or person having such control, may, if the Municipality so direct, be paid from the municipal fund.

Displacing pavements, etc.

121. (*1*) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags, or other materials, of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other such municipal property therein, without the written consent of the Municipality, or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

Penalty for failure to replace after notice.

(*2*) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials, or in the fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants, or other municipal property of any public street, shall fail to replace or restore the same to the satisfaction of the Municipality after notice to do so, shall be punished with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in restoring the street, and such expense shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Obstructions and encroachments upon public streets and open spaces.

122. (*1*) Whoever in any place after it has become a municipal district, shall have built or set up, or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step, or any projecting structure or thing, or other encroachment or obstruction, in any public street, or shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing in such street, or in or over or upon, any open drain, gutter, sewer, or aqueduct in such street, shall be punished with fine which may extend to twenty-five rupees.

(*2*) The Municipality shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorized obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the Municipality or not, provided that if the space be vested in His Majesty the permission of the Collector shall have first been obtained, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*3*) Whoever, not being duly authorized in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon, any open space which is not private property, shall be punished with fine which may

extend to fifty rupees, and, in the case of an encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(*4*) Nothing contained in this section shall prevent the Municipality from allowing any temporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than four days, and in such manner as not to inconvenience the public or any individual.

[1][(*5*) Nothing contained in this section shall apply to any projection duly authorized under sub-section (*1*) of section 113, or in any case where permission has been given under sub-section (*4*).]

Hoards to be set up during repairs, etc.

123. (*1*) Every person intending to build or take down any building, or to alter or repair the outward part of any building, in such a position or in such circumstances as that the work is likely to cause or may cause obstruction, danger or inconvenience in any street, shall before beginning such work,

(*a*) first obtain a license in writing from the Municipality so to do, and

(*b*) cause sufficient hoards or fences to be put up in order to separate the building where such works are being carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Municipality during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Municipality.

(*2*) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Fencing and lighting during repairs, etc.

124. (*1*) The Municipality shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in them, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains, or posts to be fixed across or in any of the streets to prevent the passage of carriages, carts, or other vehicles, or of cattle or horses, while such works are carried on, as to them shall seem proper ; and the Municipality shall cause any sewer or drain or other works in streets, during the construction or repair thereof, to be lighted with a sufficient light and guarded during the night.

(*2*) Whoever takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any such light, without the authority or consent of the Municipality, shall be punished with fine which may extend to fifty rupees.

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[1] This sub-section was added by s. 9 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra* p. 1724.

Timber not to be deposited or hole made in a street without permission.

125. (*1*) No person shall, without the written permission of the Municipality or otherwise than in accordance with such conditions as may therein be prescribed, make a hole in any street or erect or deposit thereon, any timber, stone, brick, earth or other material that has been, or is intended to be, used for building; and such permission shall be terminable at the discretion of the Municipality; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure, to the satisfaction of the Municipality, and shall cause the same to be sufficiently lighted during the night.

(*2*) Whoever contravenes any of the provisions of sub-section (*1*) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Dangerous quarrying.

126. [1] If in the opinion of the Municipality the working of any quarry, or the removal of stone, earth or other material from the soil in any place is dangerous to persons residing in or having legal access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Municipality may, by written notice, require the owner of the said quarry or place, or the person responsible for such working or removal, not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Municipality shall direct for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom:

Provided that if such quarry or place is vested in His Majesty, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of Government, or any person acting with the permission or under the authority of Government or of any officer of Government acting as such, the Municipality shall not take such action unless and until the Collector has consented to their so doing:

Provided further that the Municipality shall immediately cause a proper hoard or fence to be put up for the protection of passengers near such quarry or place, if in any case referred to in this [2] [section] it appears to them to be necessary in order to prevent imminent danger, and any expense incurred by the Municipality in taking action under this section shall be paid by such owner or other person as aforesaid, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*6*) *Powers for the prevention of nuisances.*

Depositing

127. (*1*) Whoever deposits, or causes or suffers any member of his family

[1] The figure 1 was deleted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] "Section" was substituted for "sub-section" by s. 2 of Bom. Act 3 of 1902, *infra*, p. 1642.

or household to deposit any dust, dirt, dung, ashes, garden, kitchen or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthenware or other rubbish, or any other thing that is or may be a nuisance, in any street or in any arch under a street, or in any drain beside a street or on any open space or on any quay, jetty or landing place, or on any part of the sea-shore or the bank of a tidal river, whether above or below highwater mark, or on the bank of any river, water-course or nullah, except at such places, in such manner, and at such hours as shall be fixed by the Municipality, and whoever commits, or suffers any member of his family of household to commit, nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees. Dust, etc.

(2) Whoever throws or puts, or causes or suffers any member of his household to throw or put, any of the matter above described, or, except with the permission of the Municipality, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance, or suffers any member of his family to commit nuisance, in any such drain, culvert, tunnel or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

128. Whoever causes or allows the water of any sink or sewer, or any other liquid or other matter which is, or which is likely to become offensive, from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Municipality, or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees. Discharging sewage, etc.

129. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from, and to cleanse and purify, such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees, for every day on which such offence is continued, after the date of the first conviction. Non-removal of filth, etc.

130. (1) The Municipality may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter. Removal of night-soil.

(2) Whoever,

(*a*) when the Municipality have fixed such hours, and given public notice

thereof by beat of drum, removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the Municipality or not,

(*i*) uses for any such purpose any cart, carriage, receptacle or vessel not having a covering proper for preventing the escape of the contents thereof, and of the stench therefrom, or

(*ii*) wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

(*iii*) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(*iv*) places or sets down in any public place any vessel containing such offensive matter, or

(*v*) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Municipality by public notice,

shall be punished with fine which may extend to twenty-five rupees.

Filthy buildings, etc.

131. (*1*) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Municipality a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing by the Municipality to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued, after the date of the first conviction.

(*2*) Should the state of the building be such as in the judgment of the Municipality to render it unfit for human habitation, they may further by written notice prohibit the using thereof for that purpose until it is so rendered fit.

Deserted and offensive buildings.

(*3*) If any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby

(*a*) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(*b*) coming into use for any insanitary or immoral purpose, or

(*c*) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the Municipality, if they consider such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal district who claims to be the owner of such building, by written notice directed to such person, require such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed, and in the event of non-compliance with such requirement, the Municipality, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by them in so doing, and all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Power to enter and inspect, etc., buildings.

132. It shall be lawful for the president, vice-president, or any councillor or officer authorized by the Municipality in this behalf, at any time between sunrise and sunset, on giving such notice as hereinafter provided, to enter into and inspect all buildings and lands, and by written notice to direct all or any part thereof to be forthwith internally and externally limewashed or otherwise cleansed for sanitary reasons.

Bathing places.

133. (*1*) The Municipality may set apart sufficient public places, or any part of the sea-shore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in ; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal district.

(*2*) Copies of all orders passed and notices issued by the Municipality and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable times.

Fouling water.

134. (*a*) Whoever, in disobedience of any order of the Municipality under section 133, or of any by-law, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the Municipality, or washes, or causes to be washed, therein any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought thereinto anything that is, or may be-

come, a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted, and

(*b*) whoever without permission of the Municipality, steeps in any tank, stream, or ditch within, or on the boundary of, the municipal district any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance,

shall be punished with fine which may extend to fifty rupees.

Abatement of nuisances.

135. When any pool, ditch, tank, pond, well, hole, or any waste or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter, whether the same be within any private enclosure or otherwise, shall appear to the Municipality to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the Municipality may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall, in their opinion, be necessary to abate or remove the nuisance.

Using offensive manure, etc.

136. Whoever, except with the written permission of the Municipality, and in the way, if any, enjoined in such permission, stores or uses night-soil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees.

Tethering cattle, etc.

137. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper, shall be punished with fine which may extend to twenty-five rupees.

Consumption of smoke.

138. (*1*) It shall be lawful for the Municipality to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever within the limits of the municipal district, whether a steam engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace.

(*2*) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented, or altered, or shall so negligently use, or permit to be used, any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, every person so offending, being the owner or occupier of the said works or buildings or, being an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees, and upon any subsequent conviction to five hundred rupees :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(7) Regulation of Markets, Sale of Food, etc.

Licensing markets and slaughter-houses.

139. *(1)* It shall be lawful for the Municipality to direct that no place shall be used as a market for the sale of animals, meat, fish, fruit or vegetables intended for human food, or as a slaughter-house, excepting the public markets or slaughter-houses constructed or opened by the Municipality, or such other markets or slaughter-houses as may have been licensed in writing by the Municipality, who may, at their discretion, from time to time grant, suspend, withhold or withdraw such licenses, either generally or in individual instances.

(2) No person shall, in any municipal district in which by-laws are in force prescribing the conditions on and subject to which, and the circumstances in which, licenses for shops for the sale of such commodities may be granted, refused, suspended or withdrawn, use without a license from the Municipality granted in accordance with by-laws made under clause *(b)* of sub-section *(1)* of section 48 any place as a shop for the sale of animals, meat, or fish, intended for human food, except in a municipal or licensed market.

(3) Whoever contrary to such direction or without the license required as aforesaid, or otherwise than in accordance with the conditions on or subject to which such license was granted, sells or exposes for sale any such animals or commodities, or uses or permits the use of a place as a shop for the sale thereof, or uses any place as a slaughter-house, shall be punished with fine which may extend to twenty-five rupees.

(4) Upon a conviction being obtained in respect of any place which has, without, or during the suspension or after the withdrawal of, a license, been used or permitted to be used as a shop for such sale as aforesaid, the Magistrate shall, on the application of the Municipality, but not otherwise, order such place to be closed, and thereupon appoint persons, or take other steps, to prevent such place being so used, and every person, who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with a fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

(5) Nothing contained in this section shall apply to the use of any hotel or eating house for the sale of food served for consumption on the premises.

Opening, closing and letting of markets and slaughter-houses.

140. *(1)* The Municipality may from time to time open or close any public market or slaughter-house. They may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter-house.

(*2*) Any person who, without the permission or license of the Municipality, shall sell or expose for sale any article in the said markets, or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

Slaughter-houses, etc., beyond municipal limits.

141. It shall be lawful for the Municipality, with the sanction of the Commissioner or, if authorised by him, of the Collector to establish slaughter-houses or places for the disposal of carcasses of animals, beyond the limits of the municipal district, and all provisions of this Act and of by-laws in force thereunder relating to such places within municipal limits, shall have full force therein, as if such places were within the municipal limits.

Search for and inspection of unwholesome articles.

142. (*1*) The president, vice-president or any councillor or officer authorised by the Municipality in this behalf—

(*a*) may at all reasonable times enter into any place for the purpose of inspecting, and may inspect, any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale, or deposited in, or brought to, any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

(*b*) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of a perishable nature may, under the orders of the president, vice-president or chairman of the managing committee or of a committee appointed under section 29 to exercise all or any of the powers vested in the Municipality under this sub-chapter, if in his opinion it is diseased, unsound, unwholesome or unfit for food, drink and medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appear to the Magistrate upon sufficient evidence that any such article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian [1] Penal Code do not apply, be punished with fine which may extend to one hundred rupees, and the Magistrate shall cause such article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink or medicine. XLV of 1860.

[1] *See* the reprint of the Act as modified up to 1st April, 1903.

(2) In every municipal district in which this sub-section is, by virtue of a notification [1] [issued] under the [2] Bombay Prevention of Adulteration Act, 1899, [3] [as if the sub-section were part of section 5 of that Act,] for the time being in force, and applicable to food of all kinds or of any specified kind, Adulterated articles for food or drink.

Bom. II of 1899.

if any article to which this sub-section is applicable as aforesaid, is intended for food or drink, and is in any place mentioned in sub-section (*1*), the president, vice-president or officer authorised as aforesaid, in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink, and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall if in such case the provisions of section 273 of the [4] Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

XLV of 1860.

EXPLANATION.—If such article having been exposed or stored in, or brought to any place mentioned in sub-section (*1*) for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed to be, for the purposes of this sub-section, an article which is not what it is represented to be.

Provided that when any article of food referred to in this sub-section appears to the Magistrate not to be what it is represented to be, solely by reason of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate— Protection to persons acting in good faith.

(*a*) that such substance has been added to the article of food, because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food or conceal the inferior quality thereof, or

(*b*) that in the process of production, preparation or conveyance of such article of food, the extraneous substance has unavoidably become intermixed therewith, or

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[1] The word "issued" was inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] *Supra*, p. 1502.

[3] These words were inserted by s. 2 of Bom. Act 3 of 1902.

[4] *See* the reprint of the Act as modified up to 1st April, 1903.

(*c*) that, by a label distinctly and legibly written or printed on or with the said article of food or by other means of public description, he has given sufficient notice that such substance has been so added, or

(*d*) that—

(*i*) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(*ii*) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(*iii*) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it.

Application for summons to be refused if not applied for within reasonable time.

(*3*) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

False weights and measures.

143. The president, vice-president, or any councillor, or officer authorised by the Municipality in this behalf, may at all reasonable times enter into any place used for the sale of articles used for human food, and inspect the weights and measures in use, and if the person in charge be found in possession of any false or defective weights or measures, or of weights and measures by the use of which the public may be defrauded, he shall be punished with fine which may extend to two hundred and fifty rupees.

(*8*) *Prevention of dangerous diseases.*

Powers which may at any time be conferred.

144. (*1*) The Governor in Council may at any time [1] confer by notification on any Municipality designated therein, all or any of the powers specified in sub-section (*2*), and such Municipality shall, subject to all such limitations, restrictions and conditions, if any, as the Governor in Council in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal district every power so conferred on them, for such period as may be specified in this behalf in any such notification, or if no period is so specified, then until such power is withdrawn.

(*2*) The powers, all or any of which may be conferred under the preceding sub-section, are :—

(*a*) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have

[1] For a list of notifications conferring these powers on Municipalities, *see* the addenda attached to p. 1 of Vol. II of the Bombay Local Rules and Orders, Ed. 1898.

reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under the management or control of any such manager or head of a household, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the Municipality in that behalf;

(*b*) power to direct or authorise the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable, any place in which any dangerous disease is reported or suspected to exist, and the taking of measures to prevent the spread of the disease beyond such place;

(*c*) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place, which may appear to the Municipality, on the advice of a medical officer, likely to engender or cause the spread of any dangerous disease;

(*d*) power to direct or cause the removal, on a certificate signed by any duly qualified medical practitioner authorised by the Municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment;

(*e*) power to require by written notice the owner or occupier of any building, or part of a building, or a person owning or in charge of any article therein to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the Municipality in the circumstances of the case consider reasonable, at the expense of the Municipality;

(*f*) power to provide the means, and to prescribe places, for disinfecting or washing bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof;

(*g*) power—

(*i*) to provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease, and

(*ii*) when such provision is made, to prohibit the conveyance of such persons in all or any public conveyances, and

(*iii*) to direct that any conveyances that may at any time be used for conveying any such person shall be immediately disinfected ;

(*h*) power to prohibit—

(*i*) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmshála, theatre, market or other place of public resort : or

(*ii*) any person in charge of any person so suffering from so exposing such sufferer ;

(*i*) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows, or has reason to believe, has been exposed to infection of any kind whatsoever from any dangerous disease ;

(*j*) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharmshála or serai, in which a person has, or in which there is reason to believe that a person has, been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the Municipality or of such officer as the Municipality appoint in this behalf ;

(*k*) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from dangerous disease.

(*3*) The Municipality may, in their discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the Municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

Penalties for disobedience to an order passed in exercise of such powers.

(*4*) Any person who in a municipal district disobeys any order which is for the time being in force therein, and which has been passed by the Municipality in exercise of any power conferred on such Municipality under this section, or obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order, shall be punished with fine which may extend to two hundred rupees.

Duties of Municipality on threatened

145. (*1*) In the event of the municipal district or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the Municipality shall take all such measures as they deem necessary for

the purpose of preventing, meeting, mitigating or suppressing such outbreak. or actual outbreak of dangerous disease.

(*2*) In such event as aforesaid the Governor in Council may, by special notification, declaring that such municipal district is threatened or visited with an outbreak of a dangerous disease, confer on the Municipality all or any of the additional powers specified in the following sub-section, and such Municipality shall, subject to such limitations, restrictions and conditions, if any, as the Governor in Council in the same or in any subsequent notification may prescribe, exercise every such power so conferred on them until the same is withdrawn by means of a like notification.

(*3*) The powers all or any of which may be conferred under the preceding sub-section are—

(*a*) power to order, subject to the conditions,

(*i*) that the permission of a Magistrate exercising not less than second class powers shall be in each case first obtained, and

(*ii*) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling, or of any part thereof, or of any building so used adjacent to such building, by the person or persons residing, whether habitually or temporarily, therein;

(*b*) power to direct the examination by a medical officer of persons, and if necessary, the disinfection of the clothing, bedding or other suspicious articles belonging to persons, either arriving from places outside the municipal district, or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such time and places as may be prescribed, for a period not exceeding ten days;

(*c*) power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the District or other medical officer appointed by the Governor in Council on this behalf, such assemblages in such place, in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(*4*) The Municipality may, in their discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section; but except as allowed by the Municipality, no claim for com-

pensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

Penal clauses.

(*5*) If in any municipal district in which such declaration under sub-section (*2*) as aforesaid is for the time being in force, any person—

(*a*) knowingly disobeys any order which for the time being is in force in such district and which has been passed by the Municipality in exercise of any power conferred on them under section 144 or undert hisse ction, or

(*b*) obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order,

such person shall be punished with fine which may extend to one thousand rupees.

Withdrawal and modification of powers and orders.

146. (*1*) The Governor in Council may at any time

(*a*) withdraw any power conferred under section 144 or under section 145;

(*b*) cancel or modify any limitation, restriction or condition prescribed in respect of anys uch power; or

(*c*) cancel any order passed by a Municipality in exercise of any such power.

(*2*) Every order passed by a Municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal district.

Duties of Municipality in respect of diseases among cattle, sheep or goats.

147. If in any municipal district any infectious disease amongst cattle, sheep or goats breaks out, or if the introduction of any such disease appears to be likely, the Municipality shall take all such measures as they deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

Proceedings to abate the overcrowding of the interiors of buildings.

148. (*1*) Whenever the Municipality consider the interior of a building is so overcrowded as to be, or to be likely to become, dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the Municipality may cause proceedings to be taken before a Magistrate of the First Class for the purpose of obtaining an order to prevent such overcrowding.

Procedure of Magistrate.

(*2*) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease, or risk of disease, and after such further enquiry, if any, as may appear to such Magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(*3*) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall for the purposes of this [1][section] be deemed to be the owner of the building.

(*4*) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (*2*), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed thereby, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

(*5*) Any owner who after the date specified in any requisition issued under sub-section (*2*) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (*4*), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.

Special powers which may be conferred by the Governor in Council in respect of over-crowded areas notified by the Governor in Council.

149. (*1*) If the Governor in Council is of opinion that risk of disease has arisen or is likely to arise, either to any occupier in, or to any inhabitants in the neighbourhood of, any area by reason of any of the following defects, namely—

(*a*) the manner in which either buildings, or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together ; or

(*b*) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected ; or

(*c*) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid ; or

(*d*) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings ;

he may by notification confer on the Municipality, to which such area is subject, all or any of the powers specified in sub-section (*2*), and may, if he deem necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the Municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of the Governor in Council.

(*2*) The powers all or any of which may be conferred on a Municipality under sub-section (*1*) are as follows :—

(*a*) power, when any building or block already existing or in course

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[1] "Section" was substituted for "sub-section" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

of erection, by reason of any defect specified in sub-section (*1*) has given or is in the opinion of the Municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block, and addressed as the Municipality deem fit either to the owners thereof, or to the owners of the land on which such building or block is erected or is in course of erection, that the persons so addressed shall, within a reasonable time as shall be specified in the notice, either pull down or remove the said building or block, or execute such works or take such action in connection therewith as the Municipality deem necessary to prevent all such risk of disease ;

(*b*) power by municipal or other agency, to pull down or remove the said building or block, or to execute such works or take such action, if the persons addressed in the said notice neglect so to do within the time specified therein ;

(*c*) power, subject to a right of appeal to the Commissioner, whose decision shall be conclusive, to prohibit by written notice addressed to the owner and occupier of any such site or space, and by general notice published in the manner provided in sub-section (*3*) of section 154, the erection of any building or of any building exceeding such dimensions as may be specified,

(*i*) on the site of any building which has, in whole or in part, in exercise of the power specified in clause (*a*), been pulled down, or

(*ii*) on any space not occupied by buildings, whether such space is private property or not, and whether it is enclosed or not,

if the Municipality consider that in order to prevent such risk as aforesaid, such site or space should not be built upon, and either

(*a*) to acquire such site or space, or

(*b*) to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof :

Provided that in every case compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 160, shall be paid to any person whose rights are affected by such prohibition.

(*3*) When, in pursuance of any notice under sub-section (*2*), any building has been pulled down, the Municipality shall, unless it has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby reasonable compensation, the amount of which shall, in case of dispute, be ascertained or determined in the manner provided in section 160.

(*4*) In making any rule under sub-section (*1*) the Governor in Council may prescribe a fine not exceeding five hundred rupees for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach, of any order made or conditions imposed by the municipality in exercise of the powers conferred upon them under this section or in pursuance of such rules.

Closing of places for disposal of the dead.

150. (*1*) If the municipality be of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, they may submit their opinion with the reasons therefor to the Governor in Council, and the Governor in Council thereupon, after such further enquiry if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified on that behalf in the said notification.

(*2*) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

(*9*) *Nuisances from certain trades and occupations.*

Regulation of certain trades.

151. (*1*) If it be shown to the satisfaction of the municipality that any building or place used or intended by any person to be used,

(*a*) for boiling or storing offal, blood, bones or rags ;
(*b*) for salting, curing, and storing fish ;
(*c*) for storing hides, horns or skins ;
(*d*) for tanning ;
(*e*) for the manufacture of leather or leather goods ;
(*f*) for dyeing ;
(*g*) for melting tallow or sulphur ;
(*h*) for washing or drying wool or hair ;
(*i*) as a brick, pottery or lime kiln ;
(*j*) for soap-making ;
(*k*) for oil-boiling ;
(*l*) as a manufactory of sago ;
(*m*) as a distillery ;
(*n*) for storing hay, straw, fodder, wood, coal, or other combustible material ;
(*o*) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,

is, or is likely by reason of such use and of its situation to become, a nuisance to the neighbourhood, or is so used or is so situated as to be likely to be dangerous to life, health or property, the municipality may by written notice require the owner or occupier—

(*i*) at once to discontinue the use of, or at once to desist from carrying out, or allowing to be carried out, the intention so to use, such place, or

(*ii*) to use it in such manner, or after such structural alterations, as the municipality in such notice prescribes, so that it may not become, or may be no longer, a nuisance or dangerous.

Liability to penalty after notice.

(*2*) Whoever, after notice has been given under sub-section (*1*), uses any place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health, or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction.

(*3*) Upon a conviction being obtained under this section the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon appoint persons, or take other steps to prevent such place being used for any purpose mentioned in sub-section (*1*).

Penalty for unlicensed places in district in which by-laws under section 48 (*b*) (*iii*) are in force.

(*4*) Whoever uses without a license, or during the suspension or after the withdrawal of a license, any place for any purpose mentioned in sub-section (*1*) in any municipal district in which by-laws are for the time being in force prescribing the conditions on [1] [or] subject to which, the circumstances in which, and the areas [1] [or] localities in respect of which, licenses for such use may be granted, refused, suspended [1] [or] withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction.

Loitering or importuning for purposes of prostitution.

152. Whoever in any street or public place within the limits of a municipal district loiters for the purpose of prostitution, or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section, except on the complaint of the person importuned, or of a Police officer not below the rank of an officer in charge of a Police Station and specially authorized in this behalf by the District Magistrate or by the municipality.

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1 "Or" in these three places in sub-section (4) was substituted for "and" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[1] **153.** In any municipal district— Brothels.

(*a*) any part of which is within three miles of a Cantonment, or

(*b*) to which on the application of the municipality the Governor in Council may by Notification have declared this section to [1]apply,

any Magistrate of the First Class, on receiving information that a house within the limits of such district is used as a brothel, may summon the owner or occupier of such house, and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it, and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used:

Provided that action under this section shall be taken only—

(*a*) with the sanction or by the order of the District Magistrate, or

(*b*) on the complaint of three or more inhabitants of the municipal district residing in the vicinity of the house to which the complaint refers.

(10) Service of Notices, and Penalties on non-compliance therewith.

154. (*1*) The service of every notice, and the presentation of every bill under this Act, on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for therein, be effected by a municipal officer or servant or other person authorised by the municipality in his behalf, Service of notices, etc., addressed to individuals.

(*a*) by giving or tendering this notice or bill to the person to whom it is addressed; or

(*b*) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal limits, or by giving or tendering the notice or bill to some adult male member or servant of his family; or

(*c*) if such person does not reside within the municipal limits, and his address elsewhere is known to the president or other person directing the issue of the notice or bill, then by forwarding the notice or bill to such person by registered post, under cover bearing the said address; or

(*d*) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

(*2*) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service Service of notices on "owners or occupiers" of

[1] For notification applying s. 153 to the Satara Suburban Municipal District, *see* Bombay Government Gazette, 1903. Pt. I A. p. 89.

buildings and lands.

thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier, or if there be more owners or occupiers than one, to any one of them; or

(*b*) if no such owner or occupier be found, then by giving or tendering the [1] [notice] to some male adult member or servant of the family of any such owner or occupier as aforesaid; or

(*c*) if none of the means aforesaid be available, then by causing the [1] [notice] to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

(*3*) Every notice which this Act requires or empowers a municipality to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period, and in such other public buildings and places, or is published in such local papers or in such other manner, as the municipality in by-laws in this behalf prescribes.

Defective form not to invalidate notice.

(*4*) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(*5*) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*6*) In the event of non-compliance with the terms of the notice it shall be lawful for the municipality to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 160.

Punishment for disobedience to orders and notices not punishable under any other section.

155. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by a municipality under any power conferred by this chapter, or fails to comply with the conditions subject to which any permission was given to him by the municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction:

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magis-

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1 "Notice" was substituted for "bill" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

trate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Municipality in default of owner or occupier may execute works and recover expenses.

156. (*1*) Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such work, the municipality, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to them by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the municipality may seem fit;

Provided that—

Agreement for construction of drainage and water-connections.

(*a*) whenever any drainage scheme or water-works scheme has been commenced by any municipality, it shall be lawful for the municipality, without prejudice to their powers under sub-section (*1*) or section 101 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the municipality shall render, and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement, or in default in the manner described in sub-sections (*2*) and (*3*):

Provided also that—

Improvement expenses.

(*b*) when an order has been passed under sub-section (*3*) of section 90, sub-section (*1*) of section 91, [1] [sub-section (*2*)] or (*6*) of section 96 or under section 99, 101, 106 or 107 or when permission has been given under section 102, or when an arrangement has been made under proviso (*a*) of this sub-section, the municipality may, without prejudice to any other powers under this Act, if they think fit, declare any expenses incurred as aforesaid by the municipality, to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the municipality decide, including interest at the rate of six per cent. per annum, and shall be recoverable in the manner described in sub-sections (*2*) and (*3*).

Power to levy charges on occupier who may deduct the same from his rent.

(*2*) If the defaulter be the owner of the building or land, the municipality may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being, from the person who then, or any time thereafter,

[1] "Sub-section (2)" was substituted for "sub-section (1)" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier, and the owner respecting the payment of the expense of any such works as aforesaid.

Occupier, in default of owner, may execute works and deduct expenses from his rent.

157. Whenever default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the municipality, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes the execution of the Act.

158. If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect of such building, or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such work, such occupier shall, for every day during which he so continues to refuse, be punished with a fine which may extend to fifty rupees; and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he

might otherwise have become liable by reason of his default in executing such works.

Entry for purposes of the Act.

159. It shall be lawful for the president or vice-president, or any councillor or officer authorised by the municipality for such purposes, to enter for the purposes of this Act, between sunrise and sunset, into and upon any building or land, as well for the purpose of making any survey or inspection they may be entitled to make as for the purpose of executing any work authorised by this Act to be executed by them:

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier:

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in cases of compensation, etc.

160. (*1*) If a dispute arises with respect to any compensation, damages, costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall be ascertained and determined by a panchâyat of five persons, of whom two shall be appointed by the municipality, two by the party [1] [to or from whom such compensation, damages, costs or expenses may be payable or recoverable] and one, who shall be sir-panch, shall be selected by the members already appointed as above.

(*2*) If either party, or both parties fail to appoint members, or if the members fail to select a sir-panch within one month from the date of either party receiving written notice from the other of claim to such compensation, damages, costs or expenses, such members as may be necessary to constitute the Panchâyat shall be appointed, at the instance of either party, by the District Judge.

(*3*) In the event of the panchâyat not giving a decision within one month from the date of the selection of the sir-panch, or of the appointment by the District Court of such members as may be necessary to constitute the panchâyat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the [2]Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court:

I of 1894.

Provided that—

(*a*) no application to the Collector for a reference shall be necessary, and

(*b*) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

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[1] These words were substituted for "to receive compensation" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] General Acts, Vol. VI.

CHAPTER X.

Prosecutions, Suits and Powers of Police.

Municipality may prosecute.

161. (*1*) The municipality may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, or of any by-law thereunder, and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund:

Provided that no prosecution for an offence under this Act shall be instituted except within six months next after the commission of such offence.

Jurisdiction of Magistrate.

(*2*) Any prosecution under this Act or under any by-laws thereunder may, save as therein otherwise provided, be instituted before any Magistrate and every fine or penalty imposed under or by virtue of this Act or any by-law thereunder, and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to such Magistrate, by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

Distress lawful though defective in form.

162. No distress levied by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Damage to municipal property, how made good.

163. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of the municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Alternative procedure by suit.

164. In lieu of proceeding by distress and sale, or in case of failure to realise by so proceeding the whole or any part of any amount recoverable under the provisions of Chapter VIII, or of any compensation, expenses, charges or damages awarded under this Act, it shall be lawful for the municipality to sue in any Court of competent jurisdiction the person liable to pay the same, as also any other person who may have in any other way caused, or may appear likely to cause, any injury to any property, rights or privileges of the municipality.

(Chapter X.—Prosecutions, Suits and Powers of Police. Secs. 165-168.)

Power to compromise.

165. (*1*) The municipality may compound or compromise in respect of any suit instituted by or against them, or, in respect of any claim or demand arising out of any contract entered into by them under this Act, for such sum of money or other compensation as they shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(*2*) The municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in them, their officers, and servants under this Act.

Assistance for the recovery of rent on land.

166. For the purpose of the recovery of any amount due on account of rent from any person to a municipality in respect of any land vested in [1] [or otherwise held by] such municipality, the municipality shall be deemed to be superior holders, and every such person an inferior holder, of such land, within the meaning of sections 86 and 87 of the [2] Bombay Land-revenue Code, 1879, and the municipality as superior holders shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections superior holders are entitled for the recovery of rent or land-revenue payable to them by inferior holders.

Bom. V of 1879.

Limitation of suits, etc.

167. No suit shall be commenced against any municipality, or against any officer or servant of a municipality, or any person acting under the orders of a municipality, for anything done, or purporting to have been done, in pursuance of this Act, without giving to such municipality, officer, servant or person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of;

and in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Powers of Police officers.

168. (*1*) Any Police officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person be unknown to him, and if he decline to give his name and address, or if the Police officer have reason to doubt the accuracy of such name and address if given, and such person may be detained at the station-house until his name and address shall be correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

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[1] These words were inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] Vol. II of this Code, p. 631.

(*2*) It shall also be the duty of all Police-officers to give immediate information to the municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder, and to assist all municipal officers and servants in the exercise of their lawful authority.

CHAPTER XI.

MUNICIPAL ACCOUNTS.

Presentation of accounts.

169. (*1*) Every municipality shall have prepared and laid before them, at their periodical general meetings, complete accounts of the receipts and expenditure of the municipality since the 1st day of April last preceding, and at a general meeting which shall, if possible, be held on such day between the 10th January and the 1st of March as may be fixed in this behalf by the rules of the municipality, a complete account of the actual and expected receipts and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the municipality for the financial year to commence on the 1st April next following.

Budget Estimates.

(*2*) The municipality shall thereupon decide upon the appropriations, and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose.

(*3*) The municipality shall at the general meeting in April, or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past year.

Audit of accounts.

170. (*1*) The municipal accounts shall from time to time, and once in every year at the least, be audited by such agency as may be prescribed in the rules of the municipality, or if the Governor in Council so direct, by a Government auditor.

(*2*) The auditor, or auditors, shall, for the purposes of their office, have access to all the accounts and other records of the municipality.

(3) The municipality shall pay from the municipal fund such charges for the audit as may be agreed upon, or if the auditor is a Government auditor, then such charges as may be prescribed by the Governor in Council.

Transmission of accounts to Government.

171. The municipality shall, as soon as the annual accounts have been finally passed by them, transmit to the Governor in Council, or any officer duly authorised by him, in this behalf, a copy thereof, or an account in such form as the Governor in Council may prescribe, and shall furnish such details

and vouchers relating to the same as the Governor in Council or such officer may from time to time direct.

Publication of accounts.

172. The quarterly and annual accounts of receipts and expenditure, and the budget when sanctioned, shall be opened to public inspection, and shall be published in the vernacular language of the district in such manner as the municipality may prescribe in this behalf.

CHAPTER XII.

CONTROL.

Collector's powers of inspection and supervision.

173. (*1*) The Collector shall have power—

(*a*) to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any municipality, or any work in progress under them or under their direction;

(*b*) to call for any extract from the proceedings of any municipality or of any committee or for any book, or document in the possession of or under the control of a municipality, and any return, statement, account, or report which he may think fit to require such municipality to furnish;

(*c*) to require a municipality to take into their consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such municipality, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply to him within a reasonable time stating their reasons for not desisting from doing, or for not doing, such thing.

(*2*) All or any of the powers given to the Collector by this section may be delegated by him to the Assistant or Deputy Collector in charge of a táluka in so far as concerns any municipality other than a City municipality in such táluka.

Collector's power of suspending execution of orders, etc., of Municipalities.

174. (*1*) If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, or [1] * is unlawful, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

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[1] The word "which" was repealed by s. 10 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

Collector's order to be reported to Commissioner, who may confirm or modify it.

(*2*) When a Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the municipality affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

Every case under this section to be reported to Government for their final orders.

(*3*) The Commissioner shall forthwith submit to the Governor in Council a report of every case occurring under this section, and the Governor in Council may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

Extraordinary powers of Collector in case of emergency.

175. (*1*) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a municipality are empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality.

(*2*) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(*3*) The provisions of sub-sections (*2*) and (*3*) of section 174 shall apply, so far as may be, to any order made under this section.

Power of Commissioner to prevent extravagance in the employment of establishment.

176. If in the opinion of the Commissioner the number of persons who are employed by a municipality as officers or servants, or whom a municipality propose to employ, or the remuneration assigned by the municipality to those persons, or to any particular person, is excessive, the municipality shall, on the requirement of the Commissioner, reduce the number of the said persons or the remuneration of the said person or persons:

Provided that the municipality may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

Governor in Council may require any City Municipality to appoint a Chief Officer, Health Officer, or an Engineer.

177. (*1*) It shall be lawful for the Governor in Council—

(i) to require, if in his opinion at any time such an appointment is necessary, the appointment of a Chief Officer or of a Health Officer, or of an Engineer, or any one or more of such appointments, to be made by any city municipality.

(ii) to make in his discretion an order vetoing the appointment, or continuance in any such office, of any person selected therefor or appoint-

ed thereto by any such municipality, and the tenure of such office by any such person shall cease and dertermine on and from the date on which such order is communicated to the municipality ;

(iii) to require that any person appointed to be a Chief Officer shall be invested by any such municipality with all or any of the powers which can under this Act or under any rules in force at the time be lawfully delegated to him, in addition to such powers as are conferred on him by section 183 ;

(iv) to require that all or any of the powers referred to in section 144 or in section 145 (if the conditions under which that section comes into operation exist), shall be delegated by any such municipality, whether there be a Chief Officer or not, to the President, Vice-President or any such councillor as the Governor in Council may deem fit.

(*2*) Any requisition issued to the municipality under clause (i), (iii) or (iv) of sub-section (*1*) above shall be complied with within such time as the Governor in Council may in each case prescribe in that behalf.

Power of Government to provide for performance of duties in default of Municipality.

178. (*1*) When the Governor in Council is informed, on complaint made or otherwise, that a municipality have made default in performing any duty imposed on them by or under this Act, or by or under any enactment for the time being in force, the Governor in Council, if satisfied after due inquiry that the municipality have been guilty of the alleged default, may direct the Commissioner to fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

(*3*) If the expense and remuneration are not so paid, the Commissioner may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

Power of Government to supersede Municipality in case of incompetency, default or abuse of powers.

179. (*1*) If, in the opinion of the Governor in Council, any municipality are not competent to perform, or persistently make default in the performance of, the duties imposed on them by or under this Act, or otherwise by law, or exceed or abuse their powers, the Governor in Council may, by an order published, with the reasons for making it, in the Bombay Government Gazette, declare the municipality to be incompetent or in default, or to have exceeded or abused their powers, as the case may be, and supersede them for a period to be specified in the order.

Consequences of exercise of such power.

(*2*) When the municipality are so superseded, the following consequences shall ensue:—

(*a*) all councillors of the municipality shall, as from the date of the order, vacate their offices as such councillors;

(*b*) all powers and duties of the municipality shall, during the period of supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in that behalf;

(*c*) all property vested in the municipality shall, during the period of supersession, vest in His Majesty.

Power after enquiry to continue period of supersession.

(*3*) If, after enquiry made, the Governor in Council so directs, the period of supersession with all the consequences aforesaid shall from time to time be continued by an order published as aforesaid until such date as may be fixed by the Governor in Council for the re-establishment of the municipality.

(*4*) The municipality shall be re-established by the election or appointment of new councillors under the provisions of this Act applicable thereto,

(*a*) if no direction has been made under sub-section (*3*), then on the expiration of the period specified in the order of supersession under sub-section (*1*), and

(*b*) if a direction has been made under sub-section (*3*), then on such date as is fixed under that section for the re-establishment of the municipality.

Powers of Government and of the Commissioners over Collectors, etc.

180. In all matters connected with this Act, the Governor in Council, each Commissioner and each Collector shall, respectively, have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, as he has and exercises over them in the general and revenue administration.

CHAPTER XIII.

Special Provisions for City Municipalities.

Constitution of City Municipalities.

181. (*1*) The Governor in Council may, at any time, in respect of any municipal district which contains a population of not less than fifteen thousand inhabitants, declare, by notification, the municipality thereof, which shall be specified in the notification, to be a City municipality.

(*2*) The Governor in Council may, in respect of any municipality so declared, or in respect of any municipality specified in Schedule E, direct by notification, specifying such municipality, that from such date as shall be fixed by the notification containing such direction, the municipality specified shall cease to be

a City municipality, and such municipality shall, on the date fixed, cease to be a City municipality accordingly.

City Municipality may appoint a Chief Officer, Health Officer and Engineer.

182. (*1*) Any City municipality may, if they think fit, appoint a chief officer and a health officer and an engineer, or any one or more of such officers or such municipality may in their discretion appoint one person, whether temporarily or permanently, to discharge the duties of any two or of all of such offices.

(*2*) No such officer shall, save with the previous sanction of the Governor in Council, be removable from office unless by the votes of at least three-fourths of the whole number of councillors.

(*3*) When a chief officer shall have been appointed, all other officers and servants employed by the municipality shall be subordinate to him.

Powers of Chief Officer.

183. The chief officer in a city municipality shall exercise the powers hereinafter specified, and such other powers as may be delegated to him by the municipality under the provisions of this Act :

(*a*) he shall have power, subject to the provisions of this Act and of the by-laws for the time being in force thereunder, to grant, give and issue under his signature all licenses and permissions which may be granted or given by a municipality under this Act, other than licenses for markets or slaughter-houses ; and

(*b*) he may, subject to the provisions aforesaid, at his discretion suspend, withhold or withdraw any license, in any case in which he is empowered as aforesaid to grant or give a license, and in which the municipality may under the provisions aforesaid, suspend, withhold or withdraw such license ;

(*c*) he shall receive and recover and credit to the municipal fund all fees payable for licenses and permissions granted or given by him under the powers aforesaid ;

(*d*) he may make such requisitions by written notice, give such written consent or permission, issue such orders and prohibitions, and exercise all such powers as may be made, given, issued or exercised by a municipality under any provisions contained in—

(i) sub-section (*2*) of section 91,

(ii) [1][sub-section (*2*),] sub-section (*3*) or clause (*a*) of sub-section (*5*) of section 96,

(iii) section 102,

(iv) sub-section (*1*) of section 110,

(v) section 111,

(vi) section 114,

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[1] " Sub-section (2) " was substituted for " sub-section (1) " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

(vii) section 115,
(viii) section 118,
(ix) section 119,
(x) section 121,
(xi) section 122,
(xii) section 123,
(xiii) section 124,
(xiv) section 125,
(xv) section 126,
(xvi) section 127,
(xvii) section 128,
(xviii) section 130,
(xix) sub-section (*1*) of section 131,
(xx) section 132,
(xxi) section 134,
(xxii) section 142,
(xxiii) section 143,
(xxiv) clause (*b*) of sub-section (*2*) of section 144.

Chief Officer's powers of appointment and punishment.

184. The chief officer shall have, independently of such powers as may be delegated to him by the municipality in this behalf, power—

(*a*) to appoint—

(i) without the previous sanction of the municipality, to any post the monthly salary for which as fixed by rules made under clause (*b*) of section 46 does not exceed Rs. 15, and

(ii) with such previous sanction, in each case, to any post under the municipality other than that of the health officer, engineer or chief accountant, and

(*b*) to fine, reduce, suspend, or dismiss any municipal servant whose salary does not exceed Rs. 15, and, subject to the provisions of the rules for the time being in force, any other municipal officer or servant not being the health officer, engineer or chief accountant, provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal to the municipality.

Delegation of Chief Officer's powers.

185. The chief officer may, with the sanction of the municipality, delegate any of the powers conferred on him to any officer subordinate to him.

Chief Officer may take part in discussions.

186. (*1*) The chief officer may, with the permission of the president, or in virtue of a resolution passed in this behalf at any meeting of the municipality or of any committee, make an explanation in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at any such meeting.

CHAPTER XIV.

NOTIFIED AREAS.

Constitution of notified areas

187. (*1*) The Governor in Council may by notification declare that with respect to some or all of the matters upon which a municipal fund may be expended under this Act, improved arrangements are required within a specified area, which, nevertheless, it is not expedient to constitute as a municipal district under section 7.

(*2*) An area in regard to which a notification has been issued under sub-section (*1*) is hereinafter called a notified area.

(*3*) No area shall be made a notified area unless it

(i) contains a town which is the head-quarters of a táluka, or

(ii) is within a distance of one mile from a railway station:

and no such area shall include two or more towns or villages which are separated by an extent of more than one mile of land unoccupied by houses.

Power of Government to impose taxation and regulate expenditure of the proceeds thereof.

188. (*1*) The Governor in Council may by notification

[1][(*a*) apply or adapt to any notified area the provisions of any section of this Act, or part of any such section, or of any rules in force or which can be imposed in any municipal district under the provisions of this Act, subject to such restrictions and modifications, if any, as he may think fit];

(*b*) impose in any such area any tax, which might be imposed therein under the provisions of this Act if the said area were a municipal district;

(*c*) appoint a person or a committee for the purposes of the assessment and recovery of any tax imposed under clause (*b*), and in order to arrange for the due expenditure of the proceeds of such taxes, and for the preparation and maintenance of proper accounts, and generally for enforcing the provisions of any sections [2][or rules applied or adapted] under clause (*a*):

Provided that in any such area as is described in clause (i) of sub-section (*3*) of section 187, a committee shall be appointed for such purposes consisting of not less than three or more than five persons, of whom a majority shall be residents of such area.

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1 Clause (*a*) was substituted by s. 2 (1) (*a*) of the Bombay District Municipal Act Amendment Act, 1903 (Bom. Act 3 of 1903), *infra*, p. 1698.

The original clause was as follows :—

"(*a*) apply to any notified area the provisions of any section of this Act, subject to such restrictions and modifications, if any, as he may think fit;"

2 These words were substituted for "applied" by s. 2 (1) (*b*) of the Bombay District Municipal Act Amendment Act, 1903 (Bom. Act 3 of 1903), *infra*, p. 1698.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in some manner in which if the notified area were a municipal district, the municipal fund thereof might be expended.

Application of Act to notified areas.

189. For the purposes of any section of this Act which may be [1][applied] to a notified area, the person or committee appointed for such area under section 188 shall be deemed to be a Municipality under this Act, and the area shall be deemed to be a municipal district.

Preliminaries to notification.

190. (1) Before issuing any notification under sub-section (1) of section 187 or under clause (*a*) or (*b*) of sub-section (1) of section 188, the Governor in Council shall, so far as may be, follow the procedure prescribed in section 8.

Power to cancel notification.

(2) The Governor in Council may at any time cancel any notification under section 187 or 188.

Application of funds of areas ceasing to be notified.

191. When by reason of any order of cancellation under the last foregoing section any area ceases to be notified, the unexpended proceeds of any taxes levied therein under section 188 shall be applied for the benefit of the inhabitants of the said area as the Governor in Council may think fit.

SCHEDULE A.

(*See* [2][clause (*b*) of section 60).]

* To be inserted if the tax is to be substituted for any existing tax.

Notice is hereby given to the inhabitants of the municipal district of that the Municipality desire to impose the tax, rate, toll, octroi or cess (*as the case may be*) defined in the Rules appended, (in lieu of the tax known as the which is published at page of the sanctioned Rules.)*

Any inhabitant of the municipal district objecting to the proposed tax may, within [3][one month] from the date of this notice, send his objections in writing to the Municipality.

RULES.

(*The rules prepared by the Municipality under* [2][*clause* (*b*) *of section* 60] *are to be appended here.*)

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1 "Applied" was substituted for "extended" by s. 2 (2) of Bom. Act 3 of 1903, *infra*, p. 1698.

2 These words and figures were substituted for the words and figures "clause (*b*) of sub-section 3 of section 60" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

3 "One month" was substituted for "a fortnight" by s. 2 of Bom. Act 3 of 1902.

SCHEDULE B.

(*See* sub-section (*3*) of section 82.)

Form of Notice of Demand.

To

A. B., residing at

Take notice that the municipality of demand from the sum of due from on account of (*here describe the property or other subject in respect of which the tax is leviable*) leviable under Rule No. for the period of commencing on the day of 19 and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at , and sufficient cause for non-payment is not shown to the satisfaction of the municipality, a warrant of distress will be issued for the recovery of the same with cost.

Dated this day of 19

(Signed)

By order of the municipality of

SCHEDULE C.

(*See* sub-section (*1*) of section 83.)

Form of Warrant.

(*Here insert the name of the officer charged with the execution of the warrant.*)

Whereas *A. B.* of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 and ending with the day of 19 and leviable under rule No. ;

* (Here describe the tax.)

And whereas fifteen days have elapsed since the service on him of Notice of Demand for the same ;

(*Schedule D.*)

This is to command you to distrain, subject to the provisions of section 83 of the Bombay District Municipal Act, 1901, the goods and chattels of the said *A.B.* to the amount of , being the amount due from him, as follows :—

	Rs.	a.	p.
On Account of the said tax			
For service of Notice			

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this day of 19

(Signed)

President (or as the case may be), see section 83 (*2*).

SCHEDULE D.[1]

(*See* clause (*c*) of sub-section (*4*) of section 83 [2][and sub-section (*1*) of section 79.]

(*Form of Inventory and Notice.*)

To

A. B.,

residing at

Here describe the tax.)

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 , together with Rs. due as for service of notice of demand, and that unless within five days from the day of the date of this notice you pay into the Municipal Office at the said amount together with the costs of recovery, the said goods and chattels will be sold.

Dated this day of 19

(Signature of officer executing the warrant.)

INVENTORY.

(*Here state particulars of goods and chattels seized.*)

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[1] *See* second footnote on p. 1574, *supra*.

[2] These words and figures were inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

SCHEDULE E.

(*See* clause (*1*) of section 3 and sub-section (*2*) of section 181.)

Name of Municipality.	Division.
Ahmedabad Broach Surat	Northern Division.
Belgaum Dhárwár Hubli	Southern Division.
Sholápur Ahmednagar Násik Poona	Central Division.
Karáchi Hyderabad Shikárpur Sukkur	Province of Sind

BOMBAY ACT No. IV OF 1901.[1]

[*6th April, 1901.*]

An Act to amend the City of Bombay Improvement Act, 1898.

WHEREAS it is expedient to amend the City of Bombay Improvement Act, 1898 : It is hereby enacted as follows :—

Bom. Act IV of 1898.

1. This Act may be cited as the City of Bombay Improvement Amendment Act, 1901, and shall be construed as part of the City of Bombay Improvement Act, 1898, hereinafter referred to as the said Act.

2. In sub-section (*2*) of section 19 of the said Act, the words "and two other Trustees" shall be omitted.

3. After section 19 of the said Act there shall be inserted the following new section, namely :

[*Supra*, p. 1443.]

4. For sub-section (*2*) of section 31 of the said Act there shall be substituted the following sub-section, namely :

[*Supra*, p. 1448.]

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1901, Pt. I, p. 99, and for Proceedings in Council, *see ibid*, p. 172.

5. After section 41 of the said Act there shall be inserted the following new section, namely :

[*Supra*, p. 1452.]

6. For sub-section (*4*) of section 48 of the said Act there shall be substituted the following sub-section, namely :

[*Supra*, p. 1456.]

7. In sub-section (*4*) of section 60 of the said Act, after the words "Cooperage Plot" the word "and" shall be omitted, and after the words "Secretariat Plot" there shall be inserted the words "and the Marine Lines Estate."

BOMBAY ACT No. V OF 1901.[1]

[*16th May 1901.*]

An Act to amend the Bombay Abkari Act, 1878.

WHEREAS it is expedient further to amend the [2]Bombay Abkari Act, 1878, in manner hereinafter appearing; It is enacted as follows :— Bom. V of 1878.

Short title. 1. This Act may be cited as "The Bombay Abkari Act Amendment Act, 1901".

Amendment of heading to Part IV. 2. In the [2]Bombay Abkari Act, 1878, hereinafter called the said Act, for the heading to Part IV thereof, there shall be substituted the following, *viz.* :— Bom. V of 1878.

"*IV.—Cultivation and Manufacture.*"

Amendment of section 3. 3. In clause (*9*) of section 3 of the said Act after the word "bhang," there shall be inserted the word "charas" and after the figure "1878," there shall be inserted the following, *viz.* :—

"and

'hemp' means any variety of the hemp plant from which intoxicating drugs can be produced."

Amendment of sections 9, 10, 11, 13, 37 and 40. 4. In sections 9, 10, 11, 13, 37 and 40 of the said Act after the word "liquor" wherever it occurs there shall be inserted the word "hemp."

Amendment of section 12. 5. In line 1 of section 12 of the said Act after the word "liquor" there shall be inserted the word "hemp."

Amendment of section 14. 6. In section 14 of the said Act for the first word thereof there shall be substituted the following, *viz.* :—

"No one shall cultivate hemp and no."

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1901, Pt. V, p. 94; for Report of Select Committee, *see ibid*, p. 100, and for Proceedings in Council, *see ibid*, pp. 113 and 228.

[2] Vol. II of this Code, p. 583.

7. After section 14 there shall be inserted the following section, *viz.* :— New section after section 14.

[Vol. II of this Code, p. 588.]

8. In section 16 of the said Act after the words "no liquor" there shall be inserted the following, *viz.* :— Amendment of section 16.

"No hemp",

and for the second proviso to the same section there shall be substituted the following, *viz.* :—

[Vol. II of this Code, p. 589.]

9. For section 27 of the said Act there shall be substituted the following, *viz.* :— Amendment of section 27.

[Vol. II of this Code, p. 593.]

10. After section 27 of the said Act as herein amended there shall be inserted the following sections, *viz.* :— New sections after section 27.

[Vol. II of this Code, p. 593.]

11. After section 31 of the said Act there shall be inserted the following, *viz.* :— Amendment of section 31.

[Vol. II of this Code, p. 596.]

12. For clause (*f*) of section 35 of the said Act there shall be inserted the following, *viz.* :— Amendment of section 35.

[Vol. II of this Code, p. 597.]

13. In clause (*a*) of section 36 of the said Act after the words "by night any," there shall be inserted the word "warehouse," and after the word "liquor" wherever it occurs there shall be added the word "hemp." Amendment of section 36.

In clause (*b*) of the same section after the words "believe that liquor" there shall be inserted the word "hemp."

In clause (*d*) of the same section after the word "liquor" there shall be inserted the word "hemp."

14. In clauses (*a*) and (*b*) and (*g*) of section 43 of the said Act after the word "liquor" there shall be inserted the word "hemp," and after clause (*g*) of the same section there shall be inserted the following, *viz.* :— Amendment of section 43.

"or

(*h*) cultivates hemp".

15. In section 53 of the said Act after the words "any liquor" there shall be inserted the following, *viz.* :— Amendment of section 53.

"or hemp".

16. For section 54 of the said Act there shall be substituted the following, *viz.* :— Amendment of section 54.

[Vol. II of this Code, p. 604.]

17. After section 58 of the said Act there shall be inserted the following section, *viz.* :— New section after section 58.

[Vol. II of this Code, p. 605.]

BOMBAY ACT No. VI OF 1901.[1]

[*5th October, 1901.*]

An Act to amend the Bombay Land Revenue Code, 1879.

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, in manner hereinafter appearing: It is enacted as follows:— Bom. V of 1879.

Short title.

1. (*1*) This Act may be called the Bombay Land Revenue Code Amendment Act, 1901.

Commencement.

(*2*) It shall come into force at once.

Amendment of section 3, clause (*9*).

2. In the Bombay Land Revenue Code, 1879, hereinafter called the Code, in section 3 (*9*), for the word "vacant" the words "unploughed ridge or" shall be substituted. Bom. V of 1879.

Amendment of section 48.

3. (*1*) In sub-clause (*b*) of the first paragraph of section 48 of the Code, before the words "from which" the words "appropriated for any purpose" shall be inserted.

(*2*) For the second paragraph of the same section, the following shall be substituted, namely:—

[Vol. II of this Code, p. 648.]

Substitution of new clause for section 52.

4. For section 52 of the Code, the following shall be substituted, namely:—

[Vol. II of this Code, p. 649.]

Saving validity of past assessments purporting to have been fixed under section 52.

5. Any assessment of land revenue heretofore fixed by the Collector, which expressly purports, or may be reasonably held to have been intended, to have been fixed under section 52 shall be valid and deemed to have been fixed under that section as amended by the foregoing section of this Act, and the amounts due according to such assessment shall, until duly revised or altered, continue to be levied.

Amendment of section 56.

6. In section 56 of the Code, the words "freed from all tenures, incumbrances and rights created by the occupant or holder or any of his predecessors in title, or in anywise subsisting as against such occupant, or holder," are hereby repealed, and at the end of the section the following shall be added, namely:—

> "and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by restoration to the defaulter, or by transfer to another person or otherwise howsoever, shall, unless the Collector otherwise directs, be deemed to be freed from all tenures, rights, incumbrances and equities theretofore created in favour of any person other than Government in respect of such occupancy or holding."

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1901, Pt. V, p. 246; for Report of Select Committee, *see ibid*, p. 251, and for Proceedings in Council, *see ibid*, pp. 264, 332 and 364.

Amendment of section 61.

7. In the penultimate paragraph of section 61 of the Code, the words " he may have, " where they occur before the word " raised " and before the word "erected, " are hereby repealed.

Amendment of sections 67 and 68.

8. (*1*) In sections 67 and 68 of the Code, after the word " terms " the words " or conditions " shall be inserted.

(*2*) To section 68 of the Code the following proviso shall be added, namely :—

[Vol. II of this Code, p. 655.]

Amendment of section 70.

9. To section 70 of the Code the following proviso shall be added, namely :—

[Vol. II of this Code, p. 656.]

Amendment of section 73.

10. For section 73 of the Code, the following shall be substituted, namely :—

[Vol. II of this Code, p. 657.]

Addition of a section 73A.

11. After section 73 of the Code the following section shall be inserted, namely :—

[Vol. II of this Code, p. 657.]

Addition of a section 79A.

12. After section 79 of the Code the following section shall be inserted, namely :—

[Vol. II of this Code, p. 659.]

Amendment of section 81.

13. In section 81 of the Code, after the words " or that a sale " the words " or other disposal " shall be inserted, and after the words " instead of selling " the words " or otherwise disposing of " shall be inserted.

Amendment of section 122.

14. (*1*) In the first paragraph of section 122 of the Code, for the words " cause to be constructed or repaired " the words " specify, or cause to be constructed, laid out, maintained or repaired," shall be substituted.

(*2*) In the second paragraph of the same section between the words " construct " and " or repair, " in the first two places where they occur, the words " lay out, maintain," shall be inserted, and in the third place where they occur the words " lay out " shall be inserted.

(*3*) For the last paragraph of the same section the following shall be substituted, namely :—

[Vol. II of this Code, p. 675.]

Amendment of section 124.

15. In section 124 of the Code, before the words " maintenance and repair " the words " construction, laying out," shall be inserted.

Amendment of section 153.

16. To section 153 of the Code the following proviso shall be added, namely :—

[Vol. II of this Code, p. 683.]

Amendment of section 214.

17. In clause (*g*) of section 214 of the Code after the words " survey settlement " the words " and the maintenance of boundary marks " shall be added.

BOMBAY ACT No. I OF 1902.[1]

[*1st March, 1902.*]

An Act to amend the Dekkhan Agriculturist's Relief Acts, 1879 to 1895.

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1895; and whereas the previous sanction of His Excellency the Governor General required by section 5 of the Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows :—

Title and commencement.

1. (*1*) This Act may be called the Dekkhan Agriculturists' Relief Act, 1902, and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1895, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1902.

(*2*) This Act shall come into force on the first day of March, 1902.

Definition clause.

2. In this Act "section" means a section of the Dekkhan Agriculturist's Relief Act, 1879.

3. To section 59 there shall be added the following, namely :—

[Vol. I of this Code, p. 164.]

BOMBAY ACT No. II OF 1902.[2]

[*1st April, 1902.*]

An Act to amend the Karachi Port Trust Acts, 1886.

WHEREAS it is expedient to amend the Karáchi Port Trust Act, 1886, in manner hereinafter appearing: It is enacted as follows :— Bom. VI of 1886.

Short title.

1. (*1*) This Act may be cited as the Karáchi Port Trust Act Amendment Act, 1902.

Commencement.

(*2*) Section 3 shall come into force on the first day of April, 1902. The rest of this Act shall come into force at once.

Amendment of section 5.

2. In the Karáchi Port Trust Act, 1886, hereinafter referred to as the said Act, for section 5 thereof there shall be substituted the following, namely :— Bom. VI of 1886.

[Vol. II of this Code, p. 870.]

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1901, Pt. V, p. 448, and for Proceedings in Council, *see ibid*, 1902, Pt. VII, p. 154.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1900, Pt. V, p. 55; for Report of Select Committee, *see ibid*, 1902, Pt. VII, p. 1, and for Proceedings in Council, *see ibid*, 1901, Pt. V, p. 115; *ibid*, 1902, Pt. VII, p. 151.

Amendment of section 7.

3. For section 7 of the said Act there shall be substituted the following, namely :—

[Vol. II of this Code, p. 871.]

Repeal of section 10 and of portion of section 11.

4. Section 10 of the said Act and the first portion of section 11 thereof down to and inclusive of the words " In every other case " are repealed.

Amendment of section 12.

5. In section 12 of the said Act the first paragraph is repealed.

Amendment of section 13.

6. In the said Act the first two paragraphs of section 13 shall be numbered as sub-sections (*1*) and (*2*), and the following shall be added, namely :—

[Vol. II of this Code, p. 872.]

Amendment of section 15.

7. For section 15 of the said Act the following shall be substituted, namely :—

[Vol. II of this Code, p. 873.]

Insertion of new sections after section 15.

8. After section 15 of the said Act the following sections shall be inserted, namely :—

[Vol. II of this Code, p. 873.]

Amendment of section 16.

9. For section 16 of the said Act the following shall be substituted, namely :—

[Vol. II of this Code, p. 874.]

Amendment of section 18.

10. For the first two paragraphs of section 18 of the said Act, there shall be substituted the following, namely :—

[Vol. II of this Code, p. 876.]

Amendment of section 21.

11. In section 21 of the said Act, the words from " until a schedule " to " directed under this Act " are repealed ; and in the third proviso to the same section, for the words " day aforesaid, " the words and figures " 31st March, 1887," and for the words and figures " date notified by the Governor in Council under section 10, " the words and figures " 1st April, 1887, " shall be substituted.

Amendment of section 22.

12. In section 22 of the said Act—

(*a*) in clause (*5*) the words " and whether compassionate allowances shall be paid to the surviving relatives of any of the said officers and servants who are killed in the execution of their duty, and, if so, to which of them" are repealed ;

(*b*) after clause (*6*) there shall be added the following, namely :—

[Vol. II of this Code, p. 880.]

(*c*) in the proviso after the word and figure " clause (*5*) " there shall be added the words and figure " or clause (*7*)."

Amendment of section 25.

13. In section 25 of the said Act the words from " and shall also have power " to the end of the section are repealed.

Amendment of section 27.

14. In the first paragraph of section 27 of the said Act the words "upon and after the date notified by Government under section 10" are repealed.

Insertion of a new section after section 28.

15. After section 28 of the said Act the following section shall be inserted, namely :—

[Vol. II of this Code, p. 882.]

Amendment of section 29.

16. (*1*) To clause (*3*) of section 29 of the said Act there shall be added the following, namely :—

[Vol. II of this Code, p. 885.]

(*2*) In the same section of the said Act between clause (*8*) and the proviso thereto the following shall be inserted, namely :—

[Vol. II of this Code, p. 885.]

(*3*) In the proviso to the same section of the said Act, the following words are repealed, namely :—

"nor shall any contract be entered into by the Board in respect of any such new work."

Amendment of section 35.

17. In section 35 of the said Act, the following amendments shall be made, namely :—

(*a*) for the words "The Board," where they first occur, the words "An officer appointed by the Board in this behalf" shall be substituted ;

(*b*) for the word "them" the word "him" shall be substituted ;

(*c*) for the words "one hundred" the words "five hundred" shall be substituted ;

(*d*) for the words "thirty-six hours from the service of the Board's notice" the words "twelve hours from the service of such notice as aforesaid" shall be substituted.

Amendment of section 43.

18. In section 43 of the said Act, the last two paragraphs are repealed.

Insertion of two new sections after section 43.

19. After section 43 of the said Act the two following sections shall be inserted, namely :—

[Vol. II of this Code, p. 890.]

Amendment of section 44.

20. In section 44 of the said Act, (*a*) for the word "Government" the words "the Commissioner" shall be substituted, and (*b*) after the word "leviable" there shall be inserted the following, namely :—

"according to any scale for the time being in force."

Amendment of section 49.

21. In the second paragraph of section 49 of the said Act, the words "and in two local papers" are repealed.

22. After section 53 of the said Act there shall be inserted the following new section, namely :— Insertion of a new section after section 53.

[Vol. II of this Code, p. 894.]

23. In sub-clause (*b*) of section 55 of the said Act after the words " conduct of pilots " there shall be inserted the following, namely :— Amendment of section 55.

" whether maintained by the Board or not."

24. (*1*) For clause (*3*) of section 61 of the said Act the following clause shall be substituted, namely :— Amendments of section 61—(1) of clause (*3*).

[Vol. II of this Code, p. 897.]

(*2*) After clause (*6*) of section 61 of the said Act the following clause shall be inserted, namely :— (2) Insertion of new clause after clause (*6*).

[Vol. II of this Code, p. 898.]

(*3*) In clause (*7*) of section 61 of the said Act, for the word " Government " the words " the Commissioner " shall be substituted. (3) Amendment of clause (*7*).

25. In section 67 of the said Act— Amendment of section 67.

(*a*) the first paragraph thereof is repealed; and

(*b*) in the second paragraph thereof, for the words " If any sum exceeding three thousand rupees in amount is so " there shall be substituted the following, namely :—" If any sum exceeding three thousand rupees in amount, not being included in any estimate at the time being in force which has been finally approved by Government, is."

26. In section 69 of the said Act, for the third paragraph thereof there shall be substituted the following, namely :— Amendment of section 69.

[Vol. II of this Code, p. 900.]

27 After section 69 of the said Act the following sections shall be inserted, namely :— Insertion of new sections after section 69.

[Vol. II of this Code, p. 900.]

28. For the proviso to section 70 of the said Act there shall be substituted the following, namely :— Amendment of section 70.

[Vol. II of this Code, p. 901.]

29. In section 74 of the said Act the following amendments shall be made, namely :— Amendment of section 74.

(*a*) before the word " weight, " at each place where it occurs, the word " description " shall be inserted;

(*b*) before the word " understated," at each place where it occurs, the words " misstated or " shall be inserted.

Amendment of section 76.

30. In the proviso to section 76 of the said Act the following amendments shall be made, namely :—

(*a*) after the words " pilot service " there shall be inserted the words " maintained by the Board under section 55 ;" and

(*b*) after the words " Port Officer's department " there shall be inserted the following, namely :—

" and if such damage or mischief is in any way attributable to the order, act or improper omission of such officer."

Addition of new Schedules D and E.

31. To the said Act the following Schedules shall be added, namely :—

SCHEDULES D & E.

[Vol. II of this Code, p. 920.]

BOMBAY ACT No. III OF 1902.[1]

[*6th June, 1902.*]

An Act to amend the Bombay District Municipal Act, 1901, and the Bombay Prevention of Adulteration Act, 1899.

WHEREAS it is expedient that certain formal amendments should be made in the [2] Bombay District Municipal Act, 1901, and the Bombay Prevention of Adulteration Act, 1899 ;

It is enacted as follows :—

Title and commencement.

1. (*1*) This Act may be called the Bombay District Municipal Act (1901) Amendment Act, 1902.

(*2*) It shall come into force at once.

Enactments amended.

2. (*1*) The enactments specified in the Schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

(*2*) The amendments aforesaid shall be deemed to have been made and to have effect from the date of the passing of the [2]Bombay District Municipal Act, 1901.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1902, Pt. VII, p. 57, and for Proceedings in Council, *see ibid*, 1902, Pt. VII, p. 196.

[2] *Supra, p.* 1527.

(*Schedule.*)

SCHEDULE.

(*See section 2.*)

Year.	Number.	Short Title.	Amendment.
1	2	3	4
1901	III	[1] The Bombay District Municipal Act.	In section 3, sub-section (*4*), *for the word* Act *read* Acts. In section 15, sub-clause (vii) of the proviso to sub-section (*1*), *for the word and figures* section 73 *read* section 71. In section 15, sub-section (*2*), clause (*e*), *for the words* any meeting *read* at least one meeting; *and add at the end the words* or having obtained such leave fails within one fortnight of the expiration thereof either to return or to obtain an extension of leave. In section 28, *for the word and figures* section 59 *read* section 58. In section 40, sub-section ( ), *for the word* restrictions *read* restriction. In section 56, clause (*c*), *for the word and figures* clause 54 *read* section 54. In section 59, clause (*a*), *for the word and figures* section 61 *read* section 60. In section 62, proviso (*a*) (i), *for the words* in the official year in which such notice is published *read* in any year. In section 74, clause (*c*) of the proviso, *for the word* sub-section *read* section. In section 85, clause (*b*), *after the word* made *insert* under sub-section (*4*) of section 83; in clause(*c*) *for the words* this section *read* the said sub-section; *and for the word and figures* section 84 *where they occur at the end read* section 83. In section 87, *for the words* the Secretary of State for India in Council *read* His Majesty. In section 126, *delete the figure* (*1*); *and* in the second proviso, *for the word* sub-section *read* section.

[1] *Supra*, p. 1527.

(*Schedule.*)

SCHEDULE—*continued.*

Year.	Number.	Short Title.	Amendment.
1	2	3	4
1901	III	[1] The Bombay District Municipal Act.	In section 142, sub-section (*2*), *after the word* Notification *insert* issued; *and after the words and figures* Adulteration Act, 1899, *insert* as if the sub-section were part of section 5 of that Act. In section 148, sub-section (*3*), *for the word* sub-section *read* section. In section 151, sub-section (*4*), *for the word* and *in the first, third and fourth places where it occurs read* or. In section 154, sub-section (*2*), clauses (*b*) and (*c*), *for the word* bill *in the two places where it occurs read* notice. In section 156, proviso (*b*) to sub-section (*1*), *for the word and figure* sub-section (*1*) *read* sub-section (*2*). In section 160, sub-section (*1*), *for the words* to receive compensation *read* to or from whom such compensation, damages, costs or expenses may be payable or recoverable. In section 166, *after the words* vested in *insert* or otherwise held by. In section 183, clause (*d*) (ii), *for the word and figure* sub-section (*1*) *read* sub-section (*2*). In schedule A, *for the words and figures* clause (*b*) of sub-section (*3*) of section 60 *in the two places where they occur read* clause (*b*) of section 60; *and for the words* a fortnight *read* one month. In schedule D, *after the word and figures* section 83 *in the heading insert* and sub-section (*1*) of section 79.
[1899	II	[2] The Bombay Prevention of Adulteration Act.	In section 2, *for the words and figures* Bombay District Municipal Acts, 1873 and 1884, *read* Bombay District Municipal Act, 1901. In section 4, sub-section (*1*), *for the words and figures* section 68 of the Bombay District Municipal Act, 1873, *read* section 142 of the Bombay District Municipal Act, 1901. In section 5, sub-section (3), *for the figure* (3) *read* (2) *and delete the letter* (a) *and the word* and. In section 6 *delete the figure* (1) *where it first occurs.*

[1] *Supra*, p. 1527.

[2] *Supra*, p. 1502.

BOMBAY CITY POLICE ACT, 1902.

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SCHEDULE A.—Enactments repealed.
SCHEDULE B.—Certificate to be received by Police officers appointed by the Commissioner of Police.

BOMBAY ACT No. IV OF 1902.[1]

[*9th July, 1902.*]

An Act to amend the law relating to the Bombay City Police.

WHEREAS it is expedient to amend and consolidate the law relating to the Police in the City of Bombay; and whereas the previous sanction of His Excellency the Governor General, required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act;

55 and 56 Vict., c. 14.

It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. (*1*) This Act may be cited as the City of Bombay Police Act, 1902.

Local extent.

(*2*) Sections 27, 62, 68, 97, 99, 101 and 102 extend to the whole of the Presidency of Bombay.

(*3*) The rest of the Act extends only to the City of Bombay.

Repeal of enactments.

2. (*1*) The enactments mentioned in Schedule A are repealed to the extent specified in the fourth column of the said Schedule.

(*2*) All references made in any enactment of the Governor of Bombay in Council to any enactment hereby repealed shall be read as if made to the corresponding provisions of this Act.

Saving of appointments, etc.

(*3*) All rules prescribed, appointments made, powers conferred and orders and certificates issued under any enactment hereby repealed shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred and issued thereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,

(*a*) the phrases "complaint," "investigation," "offence," "cognizable offence," "non-cognizable offence," "bailable offence" and "non-bailable offence," shall respectively have the meanings assigned thereto by the [3]Code of Criminal Procedure;

V of 1898.

(*b*) "Police officer" shall mean any member of the Police force for the City of Bombay appointed under this Act and shall include the Commissioner of Police, a Deputy or Assistant Commissioner of Police, and subject to the provisions of sub-section (*2*) of sections 9 and 10, an additional or special Police officer;

(*c*) "officer in charge of a section" shall include, when the Inspector in charge

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1902, Pt. VII, p. 49; for Report of Select Committee, *see ibid*, 1902, Pt. VII, p. 58, and for Proceedings in Council, *see ibid*, 1902, Pt. VII, pp. 157, 197 and 275.

2 Collection of Statutes relating to India, Vol. II.

3 *See* Act V of 1898 as modified up to 1st April, 1903.

of the section is absent or unable from illness or other cause to perform his duties, the next senior Police officer in the section, or such other officer as the Superintendent of the Division may, subject to the sanction of the Commissioner of Police, appoint in that behalf;

[1](*d*) "cattle" shall, besides horned cattle, include elephants, camels, horses, mares, geldings, ponies, colts, fillies, asses, mules, sheep, lambs, rams, ewes, goats, kids and swine;

(*e*) "prescribed" shall mean prescribed by any rules made under this Act;

(*f*) "sign" shall, with reference to a person who is unable to write his name, include "mark";

(*g*) "place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted, otherwise than for a *bonâ fide* charitable purpose; and shall include a race-course, circus, theatre, music hall, billiard-room, bagatelle-room, gymnasium or fencing school;

(*h*) "place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place;

and shall include a refreshment-room, eating-house, coffee-house, liquor-house, boarding-house, lodging-house, hotel, tavern or wine, beer, spirit, arrack, toddy, ganja, bhang, or opium-shop;

(*i*) "street" shall mean any road, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have permanently or temporarily a right of access;

(*j*) "public place" shall include the fore-shore, the precincts of every public building or monument, and all places accessible to the public for drawing water, washing or bathing, or for purposes of recreation;

(*k*) "vehicle" shall mean any carriage, cart, van, dray, truck, hand-cart or other wheeled conveyance of any description capable of being used on the streets of the City; and shall include a bicycle, tricycle or automotor car.

CHAPTER II.

OF THE POLICE FORCE, AND ADDITIONAL AND SPECIAL POLICE.

Constitution.

4. For the City of Bombay there shall be a Police force, the strength and

[1] *Cf.* definition in s. 3 of the Cattle Trespass Act, 1871 (1 of 1871), as modified up to 1st May, 1906.

constitution of which shall be as may, with the sanction of the Government of India, from time to time be ordered by the Governor in Council. tion of Police Force.

5. The direction and supervision of the said Police force shall, subject to the control of the Governor in Council, be vested in an officer to be styled the Commissioner of Police for the City of Bombay, who shall from time to time be appointed by the Governor in Council and may be removed by the same authority. Appointment and removal of Commissioner of Police.

6. (*1*) The Governor in Council may from time to time appoint one or more Deputy Commissioners of Police and one or more Assistants to the Commissioner of Police. Any Deputy or Assistant Commissioner so appointed may be at any time removed by order of the Governor in Council. Appointment of Deputies and Assistants to the Commissioner of Police.

(*2*) Every such Deputy Commissioner shall be competent to exercise and perform, under the orders of the Commissioner of Police, any of the powers conferred upon and duties assigned to the Commissioner of Police by or under this Act or any other enactment: and every such Assistant Commissioner shall exercise such powers and perform such duties as may from time to time be delegated or assigned to him by the Commissioner of Police: Powers of Deputy and Assistant Commissioners.

Provided that the powers conferred upon the Commissioner of Police by sections 22 and 56 shall not be exercisable by a Deputy or Assistant Commissioner under this sub-section.

7. (*1*) The appointment and the promotion of Superintendents, Inspectors, Sub-Inspectors and all other members of the Police force, except Deputy or Assistant Commissioners, shall rest with the Commissioner of Police. Power to appoint and promote.

(*2*) The Commissioner of Police may, subject to such rules and in accordance with such procedure as the Governor in Council may from time to time prescribe in this behalf, at any time— Power to dismiss, discharge, reduce, suspend, fine and confine in a police station.

(*a*) dismiss, discharge, reduce, suspend, or to the extent of half a month's pay fine, any member of the Police force appointed by him for neglect or violation of duty, or for any breach of any rules or orders issued by him under this Act, or for gross misconduct while on leave; or

(*b*) punish by confinement in a police station for a period not exceeding three days any member of the Police force below the rank of Havaldar who is in his presence grossly insubordinate or insolent:

Provided that any punishment, other than suspension, inflicted on a Superintendent of Police shall be subject to the confirmation of the Governor in Council.

(*3*) Nothing in sub-section (*2*) shall affect any Police officer's liability to a criminal prosecution for any offence with which he may be charged. Saving clause.

8. (*1*) Every Police officer appointed by the Commissioner of Police shall, on appointment, receive a certificate in the form of Schedule B under the signature Certificates to be given to Police

officers appointed by the Commissioner of Police.

of the Commissioner of Police and shall, in virtue of such certificate, be vested with the powers, functions, privileges and responsibilities of a Police officer.

(*2*) Every certificate shall become null and void whenever the person named therein ceases, for any reason, to belong to the Police force.

Effect of suspension of Police officer.

(*3*) The powers, functions and privileges vested in a Police officer shall be temporarily suspended whilst such Police officer is suspended from office. Such Police officer shall not, by reason of such suspension, cease to be a Police officer, but shall continue subject to the same responsibilities and disabilities, and subject to the same authorities, as if no such suspension had taken place.

Power to appoint additional Police officers.

9. (*1*) The Commissioner of Police may in his discretion appoint, for such time and on such pay, and of such rank or grade, as he shall think fit, additional Police officers to keep the peace or preserve order at any place, or to enforce any of the provisions of this or any other Act in respect of any particular class or classes of offences,

(*a*) on the application of any person, at the charge of such person, or

(*b*) without such application, at the charge of any person for whose profit or benefit any large work, or any public amusement, likely to impede traffic or attract a large concourse of people, is being carried on.

(*2*) Every additional Police officer so appointed shall, on appointment,—

(*a*) receive a certificate in the prescribed form;

(*b*) be vested with all or such of the powers, privileges and duties of a Police officer as are specially mentioned in the certificate; and

(*c*) be subject to the orders of the Commissioner of Police.

Notice to be given for discontinuance.

(*3*) In any case in which such Police officers are appointed on the application of any person, such person may, by giving notice in writing, require that on the expiry of one month from the receipt by the Commissioner of Police of such notice, or on the expiry of such shorter period as the Commissioner of Police may fix, the appointment of such Police officers shall cease.

Payments to be accounted for. Disputes as to payment of cost.

(*4*) All moneys received by the Commissioner of Police for the payment of any such additional Police officers shall be accounted for by him.

(*5*) In the event of any dispute in any case under this section the decision of the Chief Presidency Magistrate shall be conclusive as to the amount to be paid, and as to the person by whom it is to be paid, and the sum so ascertained may, on the requisition of the Commissioner of Police, be recovered by the Collector from such person as an arrear of land revenue.

Appointment of special

10. (*1*) The Commissioner of Police, of his own authority, may at any time appoint any able bodied male person between the ages of 18 and 55 to be a special Police officer to assist the Police force on any occasion when he

has reason to apprehend the occurrence of any riot or grave disturbance of the peace and he is of opinion that the ordinary Police force is not sufficient for the protection of the inhabitants and for the security of property. Police officers.

(2) Every special Police officer so appointed shall, on appointment,—

(*a*) receive a certificate in the prescribed form;

(*b*) have the same powers, privileges and protection as a Police officer;

(*c*) perform all such duties as may be assigned to him by the Commissioner of Police; and

(*d*) be subject to the orders of the Commissioner of Police.

(3) Any person who having been appointed a special Police officer under this section shall, without sufficient excuse, neglect or refuse to serve as such, or to obey any lawful order or direction that may be given to him for the performance of his duties, shall be punished with fine which may extend to fifty rupees. Refusal to serve or perform duties.

11. (1) Subject to the control of the Governor in Council, the Commissioner of Police shall— Constitution of divisions and sections.

(*a*) constitute within the City of Bombay such and so many Police divisions,

(*b*) sub-divide the same into so many and such sections, as to him shall seem fit, and

(*c*) define the limits and extent of such divisions and sections.

(2) Each such division shall be in charge of a Superintendent of Police and each such section shall be in charge of an Inspector of Police. Officers in charge of divisions and sections.

12. Subject to the control of the Governor in Council, the Commissioner of Police may issue such orders as he may deem expedient— Power of Commissioner of Police to issue orders as to organization, etc.

(*a*) relating to the recruitment, organization, instruction, classification, discipline and general government of the force;

(*b*) determining the description and quantity of the arms, accoutrements and other necessaries to be furnished to the Police; and

(*c*) providing for the institution, management, and regulation of any Police fund.

13. (1) Subject to the control of the Governor in Council, the Commissioner of Police may make rules not inconsistent with this Act, or with any other enactment for the time being in force,— Power of Commissioner of Police to make rules regulating duties of Police officers, etc.

(*a*) assigning duties to Police officers of all ranks and grades, and prescribing

(i) the manner in which, and

(ii) the conditions subject to which, they shall exercise and perform their respective powers and duties;

(*b*) prescribing the places of residence and the location of members of the force;

(*c*) regulating or restricting the collection and communication of intelligence and informations ; and

(*d*) prescribing the forms of certificates to be received by additional Police officers and special Police officers.

(*2*) A copy of the rules for the time being in force under this section shall be kept in every Police station.

No Police officer to resign or withdraw without permission or previous notice.

14. (*1*) No Police officer shall resign his office or withdraw himself from the duties thereof without the written permission of the Commissioner of Police and, except in the case of a special Police officer, until, save with such permission,—

(*a*) the expiration,

(i) if such member be a member of the Mounted Police, of six months, or,

(ii) in any other case, of two months,

after written notice of his intention so to do has been received from him by the Commissioner of Police ; and

(*b*) he has fully discharged any debt due by him as a Police officer to Government or to any Police fund.

(*2*) A Police officer, who being absent on leave fails without reasonable cause to report himself for duty on the expiration of such leave, shall be deemed, within the meaning of this section, to withdraw himself from the duties of his office.

Saving in case of disease, etc.

Provided that if any Police officer produces a certificate, signed by the Police Surgeon or by a medical officer holding a gazetted appointment under Government, declaring such Police officer to be unfit by reason of any disease or mental or physical incapacity for further service in the Police, the necessary written permission to resign shall forthwith be granted to him on his discharging, or giving security satisfactory to the Commissioner of Police for the payment of, any such debt as aforesaid due from such Police officer.

Certificate, arms, etc., to be delivered up by person ceasing to be a Police officer.

15. (*1*) Every person appointed under this Act to be a member of the Police force shall, on ceasing to be a member thereof, forthwith deliver up to the Commissioner of Police, or to such person and at such place as he may direct,

(*a*) his certificate, and

(*b*) all clothing, arms, accoutrements and other necessary articles furnished to him for the execution of his duty.

Warrant for seizure of same.

(*2*) The Commissioner of Police or any Magistrate may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessary articles not delivered up as required by sub-section (*1*).

(*3*) Every warrant so issued shall be executed in accordance with the provisions of this Act by a Police officer or, if the authority issuing the same so directs, by any other person.

(*4*) Nothing in this section shall be deemed to apply to any article which, under the orders of the Commissioner of Police, has become the property of the person to whom the same was furnished. Exception in case of private property.

16. Every Police officer not on leave or under suspension shall for all the purposes of this Act be deemed to be always on duty throughout the City of Bombay. Police officer to be deemed always on duty.

17. No Police officer other than a special Police officer shall, without the permission of the Governor in Council, either as principal or agent,— Police officer prohibited from other employment.

(*a*) engage in any trade,

(*b*) be in any way concerned in the purchase or sale of any immovable property within the City of Bombay or of any interest therein, or

(*c*) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police officer.

18. Any Police officer who— Offences by Police officers.

(*a*) contravenes any provision of section 17,

(*b*) is guilty of cowardice,

(*c*) resigns his office or withdraws himself from the duties thereof in contravention of section 14,

(*d*) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police officer to observe or obey, or

(*e*) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

19. Any Police officer who— Vexatious entry, search, arrest, etc., by Police officers.

(*a*) without lawful authority or reasonable cause, enters or searches, or causes to be entered or searched, any building, vessel, tent or place,

(*b*) vexatiously and unnecessarily seizes the property of any person,

(*c*) vexatiously and unnecessarily detains, searches or arrests any person,

(*d*) vexatiously and unnecessarily delays, forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person,

(*e*) offers any unnecessary personal violence to any person in his custody, or

(*f*) holds out any threat or promise not warranted by law to an accused person,

shall for every such offence be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

False statement to obtain employment.

20. Any person who knowingly makes a false statement or uses a false document for the purpose of obtaining for himself or any other person employment or release from employment as a Police officer, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Saving in regard to District and Railway Police.

21. Subject to the provisions of the [1]Police Act, 1888, and save in so far as the operation of this section may be temporarily suspended by the special order of the Governor in Council, nothing in this chapter shall be deemed to affect any officer of the District or Railway Police employed within the limits of the City of Bombay on Police functions connected with the administration of any district or railway, as the case may be, and any such Police officer shall in the discharge of such functions be vested with the powers and privileges, and be subject to the liabilities, of a Police officer of the establishment to which he belongs. III of 1888.

CHAPTER III.

Police Regulations.

Rules for preservation of order.

Power to make rules for regulation of traffic and for preservation of order in public places, etc.

22. (*1*) With the previous sanction of the Governor in Council, the Commissioner of Police may from time to time make, alter or rescind [2]rules not in consistent with this Act,—

(*a*) for licensing and controlling persons, offering themselves for employment at quays, wharves and landing-places, and outside Railway Stations, for the carriage of passengers' baggage and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed ;

(*b*) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, driving, cycling, walking, or leading or accompanying cattle, so as to prevent danger, obstruction or inconvenience to the public ;

(*c*) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle ;

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1 General Acts, Vol. V.

2 For rules regulating traffic under clauses (*b*), (*c*), (*d*) and (*e*), *see* Bombay Government Gazette, 1903, Pt. I, p. 132.

(*d*) prescribing the number and position of lights to be used on vehicles in streets and public places, and regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets, and the route and hours for such conveyance;

Bom. III of 1888.

(*e*) prescribing, subject to any notice issued by the Municipal Commissioner under clause (*c*) of section 441 of the [1] City of Bombay Municipal Act, 1888, the [2] roads along which, and the hours during which, corpses may, or may not, be carried;

(*f*) for licensing, controlling or, in order to prevent the obstruction, inconvenience, annoyance, risk, danger or damage of the residents or passengers in the vicinity, prohibiting,—

(i) the keeping of places of [3]public amusement or entertainment,

(ii) the playing of music in streets and public places,

(iii) the illumination of streets and public places and the exteriors of buildings abutting thereon by persons other than Government or Municipal officers duly authorized in that behalf,

(iv) the carrying in streets and public places of gunpowder or any other explosive substance, and

(v) the [1]blasting of rocks;

(*g*) regulating the means of entrance and exit at places of [3]public amusement, entertainment and assembly, and providing for the maintenance of public safety and the prevention of disturbance therein; and

(*h*) prescribing the procedure in accordance with which any license or permission sought to be obtained or required under this Act should be applied for, and fixing the fees to be charged for any such license or permission:

Saving of provisions of Bombay Abkari Act and other enactments.

Provided, *firstly*, that nothing in this section and no license granted under any rule made thereunder shall authorise any person to import, export, transport, manufacture, sell or possess any liquor or intoxicating drug, in respect of which a license, permit or pass is required under the [4]Bombay Abkari Act, 1878, or under any other law for the time being in force relating to the abkari revenue, or shall affect the liability of any person under any such law, or shall in any way affect the provisions of the [5]Arms Act, 1878, or of the [6]Explosives Act, 1884, or of any rules made under either of those enactments, or the liability of any person thereunder:

Bom. V of 1878.

XI of 1878.

IV of 1884.

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[1] Vol. III of this Code, p. 975.

[2] For rules under clauses (*e*) and (*v*), *see* Bombay Government Gazette, 1903, Pt. I, p. 1420.

[3] For rules relating to place of public amusement, *see* Bombay Government Gazette, 1903, Pt. I, p. 1601.

[4] Vol. II of this Code, p. 583.

[5] *See* the Act as modified up to 1st October, 1908.

[6] *See* Act 4 of 1884 as modified up to 1st September, 1908.

Saving in regard to licensing places of public entertainment.

Provided, *secondly*, that no rule under clause (*f*) shall contain any regulation requiring a license for any place of public entertainment unless spirituous liquor, toddy or any intoxicating drug, as defined in the [1]Bombay Abkari Act, 1878, or opium, as defined in the [2]Opium Act, 1878, is sold in such place, or unless such place is kept open for customers between the hours of nine at night and five in the morning. Bom. V of 1878. I of 1878.

Provisions as to publication of rules.

(*1*) The power of making, altering or rescinding rules under sub-section (*1*) shall be subject to the condition of the rules being made, altered or rescinded after previous publication in the manner specified in section 23 of the [3]General Clauses Act, 1897, and every rule made, or alteration or recission of a rule made, under the said sub-section and sanctioned by the Governor in Council, shall be published in the *Bombay Government Gazette* and in the manner specified in section 137. X of 1897

Power of Commissioner of Police to prohibit keeping of place of public amusement or entertainment.

(*3*) Notwithstanding anything hereinbefore contained in this section or which may be contained in any rule made thereunder, it shall always be lawful for the Commissioner of Police to refuse a license for, or to prohibit, the keeping of any place of public amusement or entertainment by a person of notoriously bad character.

Special Orders.

Powers of Commissioner of Police and of other officers to give directions to the public.

23. (*1*) The Commissioner of Police, and, subject to the orders of the Commissioner of Police, every Police officer not inferior in rank to an Inspector may, from time to time as occasion may require, but not so as to contravene any rule under the preceding section, give all such orders either orally or in writing as may be necessary to—

(*a*) direct the conduct of, and behaviour or action of persons constituting, processions and assemblies in streets ;

(*b*) prescribe the routes by which and the times at which any such processions may, or may not, pass ;

(*c*) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed ;

(*d*) keep order on and in all streets, quays, wharves, landing-places and all other public places or places of public resort ;

(*e*) regulate and control music or singing in any street or public place, and the beating of drums, tom-toms and other instruments and the

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1 Vol. II of this Code, p. 583.
2 *See* the reprint dated 1st March, 1903.
3 General Acts, Vol. VI.

blowing or sounding of horns or other noisy instruments in or near any street or public place ; or

(*f*) prevent, upon complaint made in writing by any person to the Commissioner of Police, the continuance of music or other such sounds as aforesaid in any place, if the Commissioner of Police be satisfied that the same is a nuisance and ought to be summarily stopped either on account of the serious illness of, or because it seriously interferes with the reasonable occupations of, any person resident or lawfully engaged in the neighbourhood :

Provided that in any case where the continuance of music or other sounds as aforesaid is so prevented, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall give effect to any such alteration or reversal.

Power to give prohibitions for prevention of disorder.

(*2*) The Commissioner of Police may also, whenever and for such time as he shall consider necessary for the preservation of the public peace or public safety, by a notification publicly promulgated or addressed to individuals, prohibit—

(*a*) the carrying of swords, spears, bludgeons, guns, or other offensive weapons, in any public place ;

(*b*) the carrying, collection and preparation of stones or other missiles or instruments or means of casting or impelling missiles ;

(*c*) the exhibition of persons or of corpses, or figures or effigies, in any public place ;

(*d*) the public utterance of cries, singing of songs, playing of music ; and

(*e*) the delivery of harangues, the use of gestures or mimetic representations and the preparation, exhibition or dissemination of pictures, symbols, placards or of any other object or thing, which may be of a nature to outrage morality or decency, or which, in the opinion of the Commissioner of Police, may probably inflame religious animosity or hostility between different classes, or incite to the commission of an offence, to a disturbance of the public peace or to resistance to or contempt of the law or of a lawful authority.

Power to prohibit assembly or procession.

(*3*) The Commissioner of Police may also by order in writing prohibit any assembly or procession, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety :

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the Governor in Council.

Power to reserve street or public place for public purpose.

(*4*) The Commissioner of Police may also, subject to the orders of the Governor in Council, by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved, save under such conditions as may be prescribed by the Commissioner of Police.

Issue of orders by Commissioner of Police for prevention of riot, etc.

24. (*1*) In order to prevent or suppress any riot or grave disturbance of the peace, the Commissioner of Police may temporarily close or take possession of any building or place, and may exclude all or any persons therefrom, or may allow access thereto to such persons only and on such terms as he shall deem expedient. All persons concerned shall be bound to conduct themselves in accordance with such orders as the Commissioner of Police may make and notify in the exercise of the authority hereby vested in him.

Compensation to lawful occupier of building or place closed or taken possession of by Commissioner of Police.

(*2*) If the lawful occupier of such building or place suffers substantial loss or injury by reason of the action of the Commissioner of Police under this section, he shall be entitled, on application made to the Commissioner within one month from the date of such action, to receive reasonable compensation for such loss or injury, unless such action was in the opinion of the Commissioner of Police rendered necessary either by the use to which such building or place was put or intended to be put or by the misconduct of persons having access hereto.

Disputes as to compensation to be settled by Chief Presidency Magistrate.

(*3*) In the event of any dispute in any case under sub-section (*2*) the decision of the Chief Presidency Magistrate shall be conclusive as to the amount (if any) to be paid, and as to the person to whom it is to be paid.

Issue of orders for maintenance of order at religious ceremonials, etc.

25. (*1*) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organized assemblage in any street or public place, as to which or the conduct of or participation in which it shall appear to the Commissioner of Police that a dispute or contention exists which is likely to lead to grave disturbance of the peace, the Commissioner of Police may give such orders as to the conduct of the persons concerned towards each other and towards the public as he shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested. Every such order shall be published in the section or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

Orders to be subject to decrees, etc., of Courts.

(*2*) Any order under sub-section (*1*) shall be subject to a decree, injunction or order made by a Court having jurisdiction, and shall be recalled or altered on its being made to appear to the Commissioner of Police that it is inconsistent with a judgment, decree, injunction or order of such Court, on the complaint, suit or application of any person interested, as to the rights and duties of any persons affected by the order aforesaid.

Police to prevent disorder at places of public amusement, etc.

26. (*1*) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, the Police officer of highest rank, superior to that of Havaldar, present in the section in which such place of public amusement is

situate, or such assembly or meeting is to be held, may, subject to such rules and orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of persons attending at, such place or such assembly or meeting, as he thinks necessary, and all persons shall be bound to conform to every such reasonable direction.

Police to have free access thereto.

(*2*) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (*1*) and to any direction made thereunder.

Dispersal of gangs and bodies of persons.

27. (*1*) Whenever it shall appear to the Commissioner of Police that the movements or encampment of any gang or body of persons in the City of Bombay are or is causing or calculated to cause danger or alarm, or a reasonable suspicion that unlawful designs are entertained by such gang or body or by any member or members thereof, or that an outbreak of epidemic disease is likely to result from the continued residence in the City of large numbers of pauper immigrants, the Commissioner of Police with the sanction of the Governor in Council may, by beat of drum or otherwise as he thinks fit, direct the members of such gang or body or such immigrants so to conduct themselves as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease, or to disperse and remove themselves to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe.

Removal of convicted beggars.

(*2*) It shall also be competent to the Commissioner of Police to direct the removal in like manner of any person who has been twice convicted of an offence under section 121.

Procedure on failure to remove.

(*3*) If any person so directed under sub-section (*1*) or (*2*) fails or refuses to remove himself outside the City of Bombay within the time specified, the Commissioner of Police may cause such person to be arrested and removed in Police custody to such place outside the city of Bombay as he may in each case direct.

Power to segregate prostitutes and keepers of brothels.

28. The Commissioner of Police may at any time cause a notice to be served upon any person who occupies or manages, or acts or assists in the management of, or upon any woman who resides in, uses or frequents, any house, room or place in which the business of a common prostitute is carried on, requiring such person or woman after a date to be mentioned in the notice, which shall not be less than seven days from the date of the notice, not to reside in, use or frequent any street or place specified in the notice.

Destruction of stray dogs.

29. (*1*) The Commissioner of Police may from time to time, by public notice, proclaim that any stray dogs found, during such period as may be specified in the said notice, wandering in the streets or in any public place may be destroyed, and any dog so found within such period may be destroyed accordingly.

Provisions as to muzzling or seizure of dogs.

(*2*) The Commissioner of Police may by public notice require that every dog, while in the streets or in any public place and not led by some person, shall be muzzled in such a manner as effectually to prevent it from biting, while not obstructing its breathing or drinking, and the Police may, so long as such notice remains in force, destroy, or take possession of and detain, any dog found loose without a muzzle in any place beyond the premises of the owner thereof :

Saving as to dogs wearing collars.

Provided that any dog so found, wearing a collar on which an apparently genuine name or address of an owner is inscribed, shall not, unless it is rabid, be forthwith destroyed, but information of the detention thereof shall forthwith be sent by post or otherwise to such owner.

Destruction or sale of dogs.

(*3*) Any dog which has been detained under sub-section (*2*) for a period of three clear days without the owner providing a muzzle and paying all expenses connected with such detention, may be destroyed or sold with the sanction and under the orders of the Commissioner of Police.

Proceeds of sale how disposed of.

(*4*) The proceeds of the sale of any dog under sub-section (*3*) shall be applied, as far as may be, in discharge of the expenses incurred in connection with its detention, and the balance, if any, shall be at the disposal of Government.

Recovery of expenses.

(*5*) Any expenses incurred in connection with the destruction or detention of any dog under this section shall, subject to the provisions of sub-section (*4*), be recoverable from the owner thereof upon a warrant issued by the Commissioner of Police, as if it were a warrant under section 386 of the [1]Code of Criminal Procedure. V of 1898.

CHAPTER IV.

EXECUTIVE POWERS AND DUTIES OF POLICE.

Duties of Police Officers.

Arrest to prevent cognizable offences.

30. A Police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

31. A Police officer may, of his own authority, interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public land-mark, or buoy or other mark used for navigation.

Duties of a Police officer.

32. (*1*) It shall be the duty of every Police officer—

(*a*) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and

[1] *See* Act V of 1898 as modified up to 1st April, 1903.

to endeavour by all lawful means to give effect to the lawful commands of his superior;

(*b*) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice or to prevent the commission of cognizable, and within his view of non-cognizable, offences;

(*c*) to prevent to the best of his ability the commission of public nuisances;

(*d*) to apprehend all persons whom he is legally authorized to apprehend and for whose apprehension there is sufficient reason;

(*e*) to aid another Police officer when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;

(*f*) to discharge such duties as are imposed upon him by any law for the time being in force;

(*g*) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear dangerous or incapable of taking care of themselves;

(*h*) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, whilst guarding or conducting any such person, to have due regard to his condition;

(*i*) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;

(*j*) in conducting searches to refrain from needless rudeness and the causing of unnecessary annoyance;

(*k*) in dealing with women and children to act with strict regard to decency and with reasonable gentleness;

(*l*) to use his best endeavours—

(i) to prevent any loss or damage by fire, and

(ii) to avert any accident or danger to the public;

(*m*) to regulate and control the traffic in the streets, to prevent obstruction therein, and to the best of his ability to prevent the infraction of any rule or order made under this Act or under any other law for the time being in force for observance by the public in or near the streets;

(*n*) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship;

(*o*) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry boats, and to the best of his ability to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat ; and

(*p*) to perform all duties imposed on him by the rules for the time being in force under sections 13 and 22 in the manner and subject to the conditions therein prescribed.

Persons bound to conform to reasonable orders of Police.

(*2*) All persons shall be bound to conform to the reasonable directions of a Police officer given in fulfilment of any of the said duties.

Police officers may restrain or remove contumacious person.

(*3*) A Police officer may restrain or remove any person resisting or refusing or omitting to conform to any such direction as aforesaid.

Powers of Police Officers to arrest without warrant.

When Police may arrest without warrant.

33. Any Police officer may, without an order from a Magistrate and without a warrant, arrest—

(*a*) any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned ;

(*b*) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;

(*c*) any person who has been proclaimed as an offender either under the [1]Code of Criminal Procedure or by order of Government ; V of 1898.

(*d*) any person who is found having in his possession or conveying anything which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence with reference to such thing ;

(*e*) any person who obstructs a Police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ;

(*f*) any person reasonably suspected of being a deserter from His Majesty's Army or Navy, or of belonging to His Majesty's Royal Indian Marine Service and being illegally absent from that service ;

(*g*) any person who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received,

[1] *See* Act V of 1898 as modified up to 1st April, 1903.

or reasonable suspicion exists, of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is under any law relating to extradition or under the [1]Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India;

44 and 45 Vict., c. 69.

(*h*) any released convict committing a breach of any rule made under sub-section (*3*) of section 565 of the [2]Code of Criminal Procedure;

V of 1898.

(*i*) any person committing in his presence any offence punishable under section 112, 115, clause (*e*), (*g*) or (*i*) of section 118, section 119, 121, 122, 123, clause (*a*) of section 124, section 126, clause (i) or (ii) of section 127, in respect of a contravention of a rule made under sub-clause (iv) or (v) of clause (*f*) of sub-section (i) of section 22, or of a prohibition given under clause (*a*) or (*b*) of sub-section (*2*) of section 23, or under section 128 of this Act, or section 3, 4, 5, or 6 of the [3]Prevention of Cruelty to Animals Act, 1890.

XI of 1890.

Refusal to give name and residence.

34. (*1*) A Police officer may arrest without a warrant any person committing in his presence in any street or public place any other non-cognizable offence punishable under this Act, or under any rule made thereunder, or under any other law for the time being in force, if such person—

(i) after being warned by a Police officer persists in committing such offence, or

(ii) refuses on being required by a Police officer to give his name and address, or gives a name or address which the Police officer has reason to believe false, or

(iii) refuses to accompany the Police officer to a station on being required so to do.

Release on bond.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that if such person is not resident in Bombay the bond shall be secured by a surety or sureties resident in Bombay.

Person arrested to be forwarded to Magistrate.

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute the bond, or, if so required, to furnish sureties, he shall, subject to the provision of sub-section (*2*) of section 87, forthwith be forwarded to the Presidency Magistrate having jurisdiction.

Other powers of arrest.

35. (*1*) Any Police officer empowered in this behalf by the Commissioner of Police may arrest without warrant for any offence specified in section 120.

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[1] Collection of Statutes relating to India, Vol. II, p. 734.
[2] *See* Act V of 1898 as modified up to 1st April, 1903.
[3] General Acts, Vol. V.

(*2*) Any Police officer may, on the information of any person in possession or charge of any dwelling house, private premises, or land or ground attached thereto, arrest without warrant any person alleged to have committed therein or thereon an offence punishable under section 111.

Arrest of vagabonds, habitual robbers, etc.

36. Any officer in charge of a section may, without an order from a Magistrate and without a warrant, arrest or cause to be arrested—

(*a*) any person found within his section taking precautions to conceal his presence within the City of Bombay, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence ;

(*b*) any person within his section who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself ;

(*c*) any person who is by repute an habitual robber, house breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

Powers to seize property suspected to be stolen.

37. (*1*) It shall be lawful for any Police officer to seize any property or thing which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

Orders of Commissioner of Police to be taken.

(*2*) Every such seizure shall be forthwith reported to the Commissioner of Police, who shall thereupon make such order respecting the custody or production of the property or thing as he shall think proper.

Enforcement of orders issued under section 23, 24 or 25.

38. Whenever a notification, order in writing or public notice has been duly issued under sub-section (*2*), (*3*), or (*4*) of section 23, or an order has been made under section 24 or 25, it shall be lawful for any Magistrate or Police officer to require any person acting or about to act contrary thereto to desist or to abstain from so doing, and, in case of refusal or disobedience, to arrest such person. Such Magistrate or Police officer may also seize any object or thing used or about to be used in contravention of such notification, order or notice as aforesaid, and the thing seized shall be disposed of according to the order of the Chief Presidency Magistrate.

Deputation of a subordinate to arrest without warrant.

39. When any officer in charge of a section requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to such subordinate officer an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

Unlawful Assemblies.

Assembly to disperse on com-

40. (*1*) Any officer in charge of a section may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance

of the public peace to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly. mand of Police officer.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a section may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier or sailor in His Majesty's Army or Navy, or Royal Indian Marine Service, or a Volunteer enrolled under the [1]Indian Volunteers Act, 1869, and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form it, in order to disperse such assembly or that they may be punished according to law. Use of civil force to disperse.

XX of 1869.

41. If on any emergency the available Police force is not sufficient to disperse an unlawful assembly or to quell a riot or other serious disturbance of the public peace, the Commissioner of Police, or Magistrate of the highest rank who is present, may apply to the officer of highest rank on the spot for military or naval aid for such purpose. Requisition of military or naval aid.

42. (1) When the Commissioner of Police or a Magistrate determines to disperse any unlawful assembly by military or naval force, he may require any commissioned or non-commissioned officer in command of any soldiers or sailors in His Majesty's Army or Navy, or Royal Indian Marine Service, or of any Volunteers enrolled under the [1]Indian Volunteers Act, 1869, to disperse such assembly by military or naval force, as the case may be, and to arrest and confine such persons forming part of it as the Commissioner of Police or Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law. Duty of officer commanding military or naval force required to disperse assembly.

XX of 1869.

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

43. When the public security is manifestly endangered by any such assembly, and when neither the Commissioner of Police nor a Magistrate can be communicated with, any commissioned officer of His Majesty's Army or Navy, or Royal Indian Marine Service, may disperse such assembly by military or naval force, as the case may be, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with the Commissioner of Police or a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Commissioner of Police or Magistrate as to whether he shall or shall not continue such action. Power of commissioned military or naval officers to disperse assembly.

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[1] General Acts, Vol. II.

Protection against prosecution or acts done under section 40, 41, 42 or 43.

44. No prosecution against any [1] [person] for any act purporting to be done under section 40, 41, 42 or 43 of this Act, or under section 42 of the [2] Code of Criminal Procedure, shall be instituted in any Criminal Court, except with the sanction of the Governor General in Council ; and V of 1898.

(*a*) no Magistrate or Police officer acting thereunder in [3] good faith,

(*b*) no officer acting under section 43 in [3] good faith,

(*c*) no person doing any act in [3] good faith, in compliance with a requisition under section 40 or 42 of this Act, or under section 42 of the [2] Code of Criminal Procedure, and V. of 1898.

(*d*) no inferior officer, or soldier, or sailor, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

Compensation for injury caused by an unlawful assembly how recoverable.

45. (*1*) With the previous sanction of the Governor in Council the Chief Presidency Magistrate may, after such enquiry as he deems necessary,—

(*a*) determine the amount of the compensation which, in his opinion, should be paid to any person or persons in respect of any loss or damage caused to any property, or in respect of death or grievous hurt caused to any person or persons, by anything done in the prosecution of the common object of an unlawful assembly ; and

(*b*) require the Municipal Commissioner to recover such amount by an addition to the general tax which shall be imposed and levied in all or such of the municipal wards, sub-wards or sections thereof, as the Chief Presidency Magistrate may, subject to any general or special orders of the Governor in Council in this behalf, direct.

Exemption from liability to pay compensation.

(*2*) It shall be lawful for the Governor in Council, on the recommendation of the Chief Presidency Magistrate, by order, to exempt any persons from liability to pay any portion of such compensation.

Conditions under which compensation claimable.

(*3*) No compensation shall be granted under this section except upon a claim made within one month from the date of the loss, damage, death or grievous hurt as aforesaid, in respect of which such claim is made, and unless the Chief Presidency Magistrate is satisfied that the person claiming compensation, or where such claim is made in respect of the death of any person, that that person also has himself been free from blame in connection with the occurrences which led to the loss, damage, death or grievous hurt as aforesaid.

Civil suit barred.

(*4*) No civil suit shall be maintainable in respect of any loss or injury for which compensation has been granted under this section.

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1 "Person" was substituted for " persons " by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), *infra*, p. 1754.

2 *See* Act V of 1898 as modified up to 1st April, 1903.

3 As to definition of " good faith," *see* s. 52 of the Indian Penal Code (Act 45 of 1860) as modified up to 1st April, 1903, and s. 3 (*20*) of the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), *infra*, p. 1708.

Recovery by Municipal Commissioner.

46. (*1*) Every addition to the general tax imposed under the last preceding section shall be recovered by the Municipal Commissioner from the persons liable therefor in the same manner as the general tax due from them.

Apportionment of responsibility.

(*2*) The provisions of sections 147 and 148 of the [1]City of Bombay Municipal Act, 1888, shall apply to any such addition, as if it were part of the general tax levied under the said Act.

Bom. III of 1888.

Unclaimed Property.

Police to take charge of unclaimed property.

47. (*1*) The Police shall take temporary charge—

(*a*) of all unclaimed property found by, or made over to, them, and also

(*b*) of all property found lying in any public street, if the owner or person in charge of such property, on being directed to remove the same, refuses or omits to do so.

(*2*) Property of which the Police have taken charge under sub-section (*1*) shall be handed over to the Commissioner of Police.

Intestate property under two hundred rupees in value.

48. (*1*) If the said property appears to have been left by a person who has died intestate, and not to be under two hundred rupees in value, the Commissioner of Police shall communicate with the Administrator General, with a view to its being dealt with under the provisions of the [2]Administrator General's Act, 1874, or other law for the time being in force.

II of 1874.

Proclamation to be issued by Commissioner of Police.

(*2*) In any other case the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation.

Power to sell perishable property at once.

(*3*) If the property, or any part thereof, is subject to speedy and natural decay, or consists of livestock, or if the property appears to be of less value than five rupees, it may be forthwith sold by auction under the orders of the Commissioner of Police, and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

Delivery of property to person entitled.

49. (*1*) The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of such property, order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention thereof.

Power to take security.

(*2*) The Commissioner of Police may, at his discretion, before making any order under sub-section (*1*), take such security as he may think proper from the person to whom the said property is to be delivered, and nothing hereinbefore contained shall affect the right of any person to recover the whole or

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[1] Vol. III of this Code, p. 975.
[2] General Acts, Vol. II.

any part of the same from the person to whom it may have been delivered pursuant to such order.

In default of claim, to be at disposal of Government.

(*3*) If no person establishes his claim to such property within such period, it shall be at the disposal of Government, and the property, or such part thereof as has not already been sold under sub-section (*3*) of section 48, may be sold by auction under the orders of the Commissioner of Police.

Procedure not affected by Indian Succession Act or Administrator General's Act.

50. Nothing in the [1]Indian Succession Act, 1865, or in the [2]Administrator General's Act, 1874, shall apply to intestate property which is dealt with by the Commissioner of Police under sub-section (*2*) of section 48. X of 1865. II of 1874.

Public Pounds.

Power to establish cattle-pounds and appoint pound-keepers.

51. (*1*) The Commissioner of Police shall from time to time appoint such places as he thinks fit to be public pounds, and may appoint to be keepers of such pounds such persons and, subject to the approval of the Governor in Council, on such emoluments as he deems fit.

(*2*) Every pound-keeper so appointed shall in the performance of his duties be subject to the direction and control of the Commissioner of Police, and shall be liable to punishment, suspension and dismissal, as if he were a Police officer under this Act.

Impounding of cattle.

52. It shall be the duty of every Police officer, and shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property in the City.

Delivery of cattle claimed.

53. (*1*) If the owner of the impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the pound-fees and expenses chargeable in respect of such cattle under sub-section (*4*).

Sale of cattle not claimed.

(*2*) If within ten days after an animal has been impounded no person appearing to be the owner of such animal offers to pay the pound-fee and expenses chargeable under sub-section (*4*), such animal shall be forthwith sold by auction, and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale shall be paid to any person who, within fifteen days after the sale, proves to the satisfaction of such officer as the Commissioner of Police appoints in this behalf, that he was the owner of such animal, and shall in any other case be at the disposal of Government.

(*3*) No Police officer or pound-keeper shall, directly or indirectly, purchase any cattle at a sale under sub-section (*2*).

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[1] General Acts, Vol. I.
[2] General Acts, Vol. II.

(*4*) (*a*) The pound-fee chargeable shall be in the case of— Fees and expenses.

(*i*) every ram,
„ ewe,
„ sheep,
„ lamb,
„ goat or kid, } eight annas,

(*ii*) every other animal, one rupee :

Provided that the Governor in Council may, by Notification in the *Bombay Government Gazette*, from time to time alter the pound-fee to be charged in the case of any animal to an amount not exceeding double the pound-fee chargeable under the foregoing scale.

(*b*) The expenses chargeable shall be at such rates for each day during any part of which an animal is impounded, as shall from time to time be fixed by the Commissioner of Police.

Weights and Measures.

54. (*1*) Any Police officer generally or specially deputed to that duty by the Commissioner of Police may without warrant enter any shop or premises for the purpose of inspecting or searching for any weights or measures or instruments for weighing or measuring used or kept therein. Powers as to inspection, search and seizure of false weights and measures.

(*2*) If he finds in such shop or premises weights, measures or instruments for weighing or measuring which he has reason to believe are false, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction, and if such weights, measures or instruments shall be found by the Magistrate to be false, they shall be destroyed.

(*3*) Weights and measures purporting to be of the same denomination as weights and measures, the standards whereof are provided by the Municipal Commissioner under section 418 of the [1]City of Bombay Municipal Act, 1888, shall, if they do not correspond with the said standards, be deemed to be false within the meaning of this section.

Bom. III of 1888.

Powers of Superior Officers.

55. A Police officer of rank superior to that of constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and in case of any duty imposed on such subordinate, a superior, when it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof. Superior officer may himself perform duties imposed on his inferior, etc.

[1] Vol. III of this Code, p. 975.

Magisterial powers of Commissioner and Deputy Commissioner.

Powers as a Magistrate or Commissioner and Deputy Commissioner of Police.

56. (*1*) The Commissioner, by virtue of his office, and any Deputy Commissioner specially empowered in this behalf by the Governor in Council, shall have all the powers of a Presidency Magistrate under sections 94, 96, 97, 98, 105, 523, 524 and 525 of the [1]Code of Criminal Procedure and section 25 of the [2]Indian Arms Act, 1878. V of 1898. XI of 1878.

(*2*) Such powers may be exercised for the purposes of any investigation or other proceeding under this Act or the [1]Code of Criminal Procedure. V of 1898.

CHAPTER V.

Information to Police and Power to Investigate.

Information if it relates to a cognizable offence to be recorded.

57. The officer in charge of a section on receiving any information relating to the commission within his section of any cognizable offence shall forthwith reduce into writing in manner prescribed, the statement made by the informant, and the informant shall sign the statement so reduced into writing which shall be kept and recorded in manner prescribed, and the officer shall forthwith enter or cause to be entered the substance of such statement in a book which shall be kept in the prescribed form.

Information in non-cognizable cases.

58. (*1*) When information is given to an officer in charge of a section of the commission within his section of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to a Magistrate.

Investigation of non-cognizable cases. Powers in investigating such cases.

(*2*) No Police officer shall investigate a non-cognizable case without the order of a Presidency Magistrate.

(*3*) Any Police officer receiving such an order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a section may exercise in a cognizable case.

Investigation in cognizable cases.

59. (*1*) Any officer in charge of a section may, without the order of a Magistrate, and shall if so ordered, investigate any case in respect of a cognizable offence alleged to have been committed within his section.

Proceedings not to be called in question.

(*2*) No proceeding of a Police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

Procedure where cognizable.

60. If, from information received or otherwise, an officer in charge of a section has reason to suspect the commission of an offence which he is em-

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[1] *See* Act 5 of 1898 as modified up to 1st April, 1903.
[2] *See* Act 11 of 1878 as modified up to 1st October, 1908.

powered under section 59 to investigate, he shall forthwith proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender : offence suspected.

Provided that, if the information is given against any person by name, and the offence is not of a serious nature, or if it appears to the officer in charge of a section that there is no sufficient ground for entering on an investigation, he need not proceed in person, or depute a subordinate officer, to make an investigation on the spot; but he shall in every such case record his reasons for not making, or causing to be made, such an investigation.

61. Any Police officer making an investigation under this Act may— Police officer's power to require attendance of witnesses.

(*a*) by order in writing, require the attendance before himself of any person being within the limits of the City of Bombay, who from the information given or otherwise appears to be acquainted with the facts or circumstances of the case, and such person shall attend if so required; and

(*b*) examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined, and such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

62. (*1*) If in the course of an investigation the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may by order in writing require the attendance before himself or any officer serving under him who is investigating a cognizable offence, of any person then being within the limits of the City of Bombay or within thirty miles of such limits, who from the information given or otherwise appears to be acquainted with the facts or circumstances of the case, and such person shall attend as so required. The provisions of clause (*b*) of the last preceding section shall apply to the person so attending. Special powers of Commissioner of Police to require attendance and obtain statements of witnesses.

(*2*) In any case the Commissioner of Police may forward to the Superintendent of Police of the district in which any person from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired, and on receipt thereof such Superintendent of Police shall cause such person to be examined orally and his statement to be reduced into writing in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

Statements to Police not to be signed or admitted in evidence.

63. (*1*) No statement made by any person to a Police officer in the course of an investigation under this Act shall, if taken down in writing, be signed by the person making it nor shall such writing be used as evidence :

Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and may then, if the Court thinks it expedient in the interests of justice, direct that the accused be furnished with a copy thereof; and such statement may be used to impeach the credit of such witness in manner provided by the [1]Indian Evidence Act, 1872. I of 1872.

(*2*) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (*1*), of the [1]Indian Evidence Act, 1872. I of 1872.

No inducement to be offered.

64. (*1*) No Police officer shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 24 of the [1]Indian Evidence Act, 1872. I of 1872.

(*2*) But no Police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Act any statement which he may be disposed to make of his own free will.

Summons to produce document or other thing.

65. (*1*) Whenever an officer in charge of a section considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation under this Chapter, he may issue a summons or written order to any person resident in the City of Bombay in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, at such time and place as may be specified therein.

(*2*) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Search by Police officer.

66. (*1*) Whenever an officer making an investigation under this chapter considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and

(*a*) there is reason to believe that the person in whose possession or power such document or thing is believed to be, will not voluntarily produce the same on being requested so to do by a Police officer, or in compliance with a summons or written order which has been, or might be issued under section 65, or

(*b*) such document or other thing is not known to be in the possession of any person,

such officer may search, or cause search to be made, for the same in any place within the limits of the City of Bombay.

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[1] *See* Act I of 1872 as modified up to 1st September, 1906,

(*2*) Such officer shall, if practicable, conduct the search in person.

(*3*) If he is unable to conduct the search in person and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or other thing for which search is to be made and the place to be searched, and such subordinate officer may thereupon search for such thing in such place.

(*4*) The provisions of sections 103 and 104 shall, so far as may be, apply to a search made under this section.

Official records and communications, etc., protected.

67. Nothing in sections 65 and 66 shall be deemed to apply to, or to authorise the issue of a summons to produce or warrant to search for, documents or communications of the nature specified in sections 123 and 124 of the [1]Indian Evidence Act, 1872, or any letter, post-card, telegram or other document, parcel or thing in the custody of the Postal or Telegraph authorities.

I of 1872.

When Police officer may require another to make search.

68. (*1*) An officer in charge of a section may require an officer in charge of another section, and the Commissioner of Police may require an officer in charge of a police station in any part of the Presidency of Bombay beyond the City of Bombay, to cause a search to be made in any place, in any case in which such officer in charge of a section or the Commissioner might cause such search to be made within the City of Bombay.

(*2*) Such officer, on being so required, shall proceed in accordance with the provisions of section 66 of this Act or section 165 of the [2]Code of Criminal Procedure, as the case may be, and shall forward the document or thing found, if any, to the officer at whose request the search was made.

V of 1898.

Power to search for persons wrongfully confined.

69. If the Commissioner of Police has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search warrant; and the person to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein, and the person, if found, shall be immediately taken before a Presidency Magistrate, who shall make such order as in the circumstances of the case seems proper.

Procedure when investigation cannot be completed.

70. (*1*) Whenever—

(*a*) it appears that any investigation under this Act cannot be completed within the period of twenty-four hours fixed by section 87, and

(*b*) there are grounds for believing that the accusation is well founded,

the officer in charge of a section shall, subject to the provisions of sub-section (*2*) of section 87, forthwith forward the person accused to a Presidency Magistrate, together with a report setting forth the substance of the information received and of the evidence adducible in the case.

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1 *See* Act 1 of 1872 as modified up to 1st September, 1906.

2 *See* Act 5 of 1898 as modified up to 1st April, 1903.

Order for detention in custody.

(*2*) The Presidency Magistrate to whom an accused person is forwarded under sub-section (*1*) may, after considering any information reduced into writing as hereinbefore provided, and examining any witnesses that he may conside. necessary, from time to time authorize the detention, in such custody as he thinks fit, of the person accused, for a period not exceeding fifteen days at a time, and shall, if he does so, record his reasons for so doing.

Report of investigation by subordinate Police officer.

71. (*1*) When any officer subordinate to an officer in charge of a section has made an investigation under this Act, he shall report either orally or in writing the result of his investigation to the officer in charge of the section.

(*2*) The substance of such report shall be entered in a book which shall be kept, in manner prescribed, by the officer to whom it is made.

Investigation to be promptly completed and report to be prepared and submitted.

72. Every investigation under this Act shall be completed without unnecessary delay, and as soon as it is completed the officer in charge of the section shall prepare a report in the prescribed form setting forth

(*a*) the names of the parties,

(*b*) the nature of the information,

(*c*) the names of the persons who appear to be acquainted with the circumstances of the case, and

(*d*) a statement showing whether any person accused in such case has been arrested or has been released on his bond, and if so, whether with or without sureties.

Release of accused when evidence deficient.

73. (*1*) If it appears to the officer preparing such report that there is not sufficient or reasonable ground of suspicion to justify the forwarding of any person therein mentioned as accused to a Magistrate, such officer shall—

(*a*) if such person is in custody, release him on his executing a bond, with or without sureties as such officer may direct, to appear if and when so required before a Magistrate empowered to take cognizance of the offence, and shall

(*b*) forward the report prepared as aforesaid to the Commissioner of Police together with any weapon or other article which it may be necessary to produce before him.

Further investigation may be ordered.

(*2*) The Commissioner of Police may in any case direct the officer in charge of the case to make further investigation, or may make such further order as he deems fit.

Order for discharge of bond, when made.

(*3*) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Commissioner of Police shall make such order for the discharge of such bond or otherwise as he shall think fit.

Case to be sent to Magistrate when evidence sufficient.

74. If the officer in charge as aforesaid considers that there is sufficient evidence or reasonable ground of suspicion to justify him in so doing, he shall—

(*a*) forward the accused person to the Presidency Magistrate having jurisdiction, or

(*b*) if the offence is bailable and the accused is able to give security, shall take security from the accused for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed, and

(*c*) shall also send to such Magistrate the report prepared under section 72, and any weapon or other article which it may be necessary to produce before him.

Bond to secure attendance of complainant and witnesses.

75. (*1*) The officer in charge as aforesaid shall also require the complainant, if any, and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence, as the case may be, in the matter of the charge against the accused.

To be sent to Magistrate.

(*2*) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send the original to the Magistrate with his report.

Complainant and witnesses not to be required to accompany Police officer.

76. No complainant or witness on his way to the Court of a Magistrate—

(*a*) shall be required to accompany a Police officer, or

(*b*) shall be subjected to unnecessary restraint or inconvenience, or

(*c*) shall be required to give any security for his appearance other than his own bond :

Provided that if any complainant or witness refuses to attend or to execute a bond as directed in sub-section (*1*) of section 75, the officer in charge of the section may forward him under custody to the Magistrate, who may detain him in custody until he executes such bond or until the hearing of the case is completed.

CHAPTER VI.

PROCEDURE.

Arrest.

Arrest how made.

77. (*1*) In making an arrest the Police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such Police officer or other person may use all means necessary to effect the arrest.

Limit of right of Police officers to use force.

(*3*) Nothing in this section gives a right to cause the death of any person who is not accused of an offence punishable with death or with transportation for life.

Search of place entered by person sought to be arrested.

78. (*1*) If any person acting under a warrant of arrest, or any Police officer having authority to arrest, has reason to believe that the person to be arrested has entered into or is within any place, the person residing in or being in charge of such place shall, on demand of such person acting as aforesaid, or of such Police officer, allow him free ingress thereto and afford all reasonable facilities for a search therein.

Procedure when ingress not obtainable.

(*2*) If ingress to such place cannot be obtained under sub-section (*1*), it shall be lawful for a person acting under a warrant in any case, and for a Police officer in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity of escape,

(*a*) to enter such place and search therein, and

(*b*) in order to effect an entrance into such place to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after duly stating his authority and purpose and demanding admittance he cannot otherwise obtain admittance:

Breaking open Zenana.

Provided that if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or Police officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to break open doors and windows for purposes of liberation.

79. Any Police officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

80. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

81. (*1*) (*a*) Whenever a person is arrested by a Police officer,

(*i*) under a warrant which does not provide for the taking of bail, or

(*ii*) under a warrant which provides for the taking of bail, but the person arrested cannot furnish bail,

and

(*b*) whenever a person is arrested

(*i*) without a warrant, or

(*ii*) by a private person under a warrant,

and cannot be legally admitted to bail or is unable to furnish bail,

the Police officer making the arrest, or when the arrest is made by a private person the Police officer to whom he makes over the person arrested, may search such person and place in safe custody all articles other than necessary wearing apparel found upon him.

(*2*) Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman and with strict regard to decency. Mode of searching women.

82. Every Police officer or other person making an arrest may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer making the arrest is required to produce the person arrested. Power to seize offensive weapons.

83. Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender, and shall, without unnecessary delay, make over any person so arrested to a Police officer and shall accompany, or in the absence of a Police officer take, such person to the nearest station. Arrest by private persons and procedure thereon.

84. Every person arrested, and every person on requisition under sub-section (*1*) of section 34, accompanying a Police officer, shall forthwith be brought before the officer in charge of the section in which the offence alleged against such person appears to have been committed, and the person or officer who made the arrest or the requisition shall inform the said officer in charge of the nature of the offence alleged to have been committed, and of any grounds that may exist for believing it to have been committed. Procedure after arrest.

85. The officer in charge of the section, if he finds Person arrested when to be discharged, etc.

(*a*) that there are no sufficient reasons for believing that the person brought before him has committed any offence, shall record his reasons and forthwith discharge such person;

(*b*) that there are reasonable grounds for suspecting that such person has committed an offence, but not for suspecting that he has committed a cognizable offence, shall forthwith submit a report containing his reasons to the Commissioner of Police and shall thereafter proceed as that officer directs;

(*c*) that there are reasonable grounds for suspecting that the person so brought before him has committed a cognizable offence, shall, if such person was arrested under section 83, re-arrest him and shall either himself investigate, or direct some officer subordinate to him to investigate, the facts and circumstances of the case.

86. An officer in charge of a section making an arrest without warrant, or detaining in custody or re-arresting a person under section 85, shall, without unnecessary delay and subject to the provisions of sections 88 and 130 and to any other provisions of this Act as to bail, take or send the person arrested before the Presidency Magistrate having jurisdiction in the case. Person arrested to be taken before Magistrate.

87. (*1*) No Police officer shall detain in custody any person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable and necessary, and, subject to the provisions of sub-section (*2*), in no case for a period exceeding twenty-four hours except under the special orders of a Presidency Magistrate. Limit to power of detention.

Holidays and time when Court is closed to be excluded.

(*2*) If the aforesaid period expires on a holiday or at night or any other time when the Court of the Presidency Magistrate having jurisdiction in the case is closed, it shall extend to such further time as will permit of the person arrested being brought before such Magistrate when the Court is next open.

Discharge of person arrested.

88. Save as provided in clause (*a*) of section 85, no person who has been arrested by, or who has on requisition under sub-section (*1*) of section 34 accompanied, a Police officer shall be discharged except

(*a*) on his own bond, or

(*b*) on bail, or

(*c*) under the special order of the Commissioner of Police or of a Magistrate.

Summons.

Summons how served.

89. (*1*) Every summons shall, if practicable, be served personally on the person summoned by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons.

(*2*) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Service of summons on Company.

(*3*) Service of a summons on an incorporated Company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation.

Service when person summoned cannot be found.

90. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when receipt cannot be obtained.

91. If service in the manner mentioned in sections 89 and 90 cannot, by the exercise of due diligence, be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Warrant.

Continuance of warrant of arrest.

92. (*1*) Every warrant of arrest issued by a Court shall remain in force until it is cancelled by the Court which issued it or until it is executed.

Security to be taken if directed in warrant.

(*2*) If the Court issuing a warrant for the arrest of any person has endorsed thereon any directions for taking security, the officer to whom the warrant is directed shall comply with such directions, and if such security be given shall release such person from custody, and forward the bond to the Court.

Direction, etc., of warrants.

93. (*1*) When a warrant is directed to more Police officers than one, it may be executed by all or by any one or more of them.

(*2*) A warrant may be executed by any Police officer whose name is endorsed upon the warrant by the officer to whom it is directed. Execution of warrant by officer whose name is endorsed.

94. The Police officer executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant. Notification of substance of warrant.

95. The Police officer executing a warrant of arrest shall, subject to the provisions of sub-section (*2*) of section 92, without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person. Person arrested to be brought before Court without delay.

96. The Commissioner of Police shall endorse his name on any warrant forwarded to him by any Court outside the City of Bombay and shall, if practicable, cause it to be executed in manner hereinbefore provided within the City of Bombay. Warrant forwarded from Court outside Bombay.

97. (*1*) When a warrant directed to a Police officer by a Court outside the City of Bombay is to be executed within the City of Bombay, he shall ordinarily take it for endorsement to a Police officer not below the rank of Inspector within whose section the warrant is to be executed. Warrant directed to Police officer by Court outside Bombay.

(*2*) Such Police officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police officer to whom the warrant is directed to execute the same within such division, and the local Police shall, if so required, assist such officer in executing such warrant: To be endorsed by Inspector, etc.

Provided that whenever there is reason to believe that the delay occasioned by obtaining such endorsement will prevent the execution of the warrant, the Police officer to whom it is directed may execute the same without such endorsement. Unless delay will prevent execution.

98. Any person arrested within the City of Bombay under the provisions of section 96 or 97 shall, unless security is taken under sub-section (*2*) of section 92, be taken before a Presidency Magistrate or the Commissioner of Police. Procedure on arrest on such warrants.

99. (*1*) Such Magistrate or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court : Procedure of Magistrate or Commissioner of Police.

Provided that if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate or Commissioner, or if such person is ready and willing to give security in pursuance of any direction endorsed on the warrant by the Court which issued the same, such Magistrate or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant. When bail to be taken.

(*2*) Nothing in this section shall be deemed to prevent a Police officer from taking security under sub-section (*2*) of section 92.

Search Warrants.

Execution of search warrant.

100. Any person to whom a search warrant is directed by a Court may make a search or inspection in accordance with such directions as may be given therein and with the provisions hereinafter contained.

Disposal of things found on search warrant issued by Court outside Bombay.

101. When in the execution of a search warrant issued by a Court outside the City of Bombay any of the things for which search is made are found in the City of Bombay, such things together with the list of the same prepared as hereinafter provided shall be taken to the Presidency Magistrate having jurisdiction at the place where they were so found or to the Commissioner of Police, and, unless there be good reason to the contrary, such Magistrate or Commissioner shall make an order authorizing them to be taken to such Court.

Procedure as in case of warrants.

102. The provisions of sections 92, 93, 94, 96 and 97 shall, so far as may be, apply to all search warrants issued to a Police officer under this Act or under the [1]Code of Criminal Procedure. V of 1898.

Person in charge of closed place to allow a search.

103. (*1*) Whenever any place liable to search or inspection under this Act is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Ingress how to be obtained.

(*2*) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by sub-section (*2*) of section 78.

Search for articles concealed on person.

(*3*) When any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched, subject to the provisions of sub-section (*2*) of section 81 if such person be a woman.

Copy of list to be given to person searched.

(*4*) When any person is searched under sub-section (*3*), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person, if he so require.

Search to be made in presence of witnesses.

104. (*1*) Before making a search under this Act, the officer about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

List of things seized to be made.

(*2*) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant

(*3*) The occupant of the place searched, or some person in his behalf shall,

[1] *See* Act 5 of 1898 as modified up to 1st April, 1903.

in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request. to be present, and to have copy of list if required.

105. The Commissioner of Police may, if he thinks fit, retain in safe custody any document or thing found or produced before him which relates to a matter under investigation or in respect of which there is a reasonable suspicion of the commission of an offence. Documents, etc., may be retained in safe custody.

Bail.

106. When any person, other than a person accused of a non-bailable offence, is arrested or detained without warrant by an officer in charge of a section and is prepared at any time while in custody of such officer to give bail, such person shall be released on bail: Bail to be taken in case of bailable offence.

Provided that such officer, if he thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

107. (*1*) When any person accused of any non-bailable offence is arrested or detained without a warrant, by an officer in charge of a section, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused. When bail may be taken in case of non-bailable offence.

(*2*) If it appears to such officer at any stage of the investigation that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

108. Before any person is released under section 106 or 107, a bond for such sum of money as the Police officer thinks sufficient shall be executed by such person, and if he is released on bail, by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed by the Police officer or by a Magistrate. Bond of accused and his sureties.

109. (*1*) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released. Discharge from custody.

(*2*) Nothing in this section or in section 106 or 107 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed. Liability to be detained for other offence.

110. The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive, and the High Court may in any case direct that any person be admitted to bail, or that the bail required by a Police officer be reduced. Amount of bail not to be excessive.

CHAPTER VII.

OFFENCES AND PUNISHMENTS.

Wilful trespass.

111. Whoever without satisfactory excuse wilfully enters or remains in or upon any dwelling-house or premises or any land or ground attached thereto, or on any ground, building, monument or structure belonging to Government or appropriated to public purposes, or on any boat or vessel, shall, whether he causes any actual damage or not, be punished with fine which may extend to twenty rupees.

Being found under suspicious circumstances between sunset and sunrise.

112. Whoever is found between sunset and sunrise—

(*a*) armed with any dangerous instrument with intent to commit an offence, or

(*b*) having his face covered, or otherwise disguised, with intent to commit an offence, or

(*c*) in any dwelling-house or other building, or on board any vessel or boat without being able satisfactorily to account for his presence there, or

(*d*) lying or loitering in any street, yard or other place, being a reputed thief and without being able to give a satisfactory account of himself, or

(*e*) having in his possession without lawful excuse (the burden of proving which excuse shall be on such person) any implement of housebreaking,

shall be punished with imprisonment for a term which may extend to three months.

Carrying weapon without authority.

113. Whoever not being a soldier or sailor in His Majesty's Army or Navy, or Royal Indian Marine Service, or a Volunteer enrolled under the [1]Indian Volunteers Act, 1869, and acting as such, or a Police officer, goes armed with any sword, spear, bludgeon, gun, or other offensive weapon, in any street or public place, unless by lawful authority, shall be liable to be disarmed by any Police officer, and the weapon or weapons so seized shall be forfeited to Government, unless redeemed by payment of such fine not exceeding ten rupees as the Commissioner of Police imposes. XX of 1869.

Possession of property of which no satisfactory account can be given.

114. Whoever has in his possession or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe is stolen property or property fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees.

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[1] General Acts, Vol. II.

115. Whoever—

Taking spirits into public hospitals;

(*a*) takes or introduces, or attempts to take or introduce any spirits or spirituous or fermented liquors or intoxicating drugs or preparations into any public hospital without the permission of a medical officer of such hospital, or

V of 1869.

or into barracks or on board vessels of war.

(*b*) not being amenable to the [1]Articles of War, takes or introduces, or attempts to take or introduce any such spirits, liquors, drugs or preparations not belonging to any person above the rank of a non-commissioned officer,

(*i*) into the barracks or buildings occupied by the troops composing the Garrison of Bombay or into any military barracks, guard-rooms or encampments, or

(*ii*) on board or alongside of any vessel of war belonging to His Majesty in the Port,

shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to one hundred rupees, and such spirits, liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

Omission by pawnbrokers, etc., to report to Police possession or tender of property suspected to be stolen.

116. (*1*) Whoever, being a pawn-broker, dealer in second-hand property, or worker in metals, or reasonably believed by the Commissioner of Police to be such a person, and having received from a Police officer written or printed information that the possession of any property is suspected to have been

XLV of 1860.

transferred by any offence mentioned in section 410 of the [2]Indian Penal Code, or by any offence punishable under section 417, 418, 419 or 420 of the said Code, is found in the possession, or thereafter comes into the possession, or has an offer either by way of sale, pawn, exchange, or for custody, alteration or otherwise howsoever, made to him, of property answering the description contained in such information, shall, unless

(*i*) he forthwith gives information to the Commissioner of Police or at a police station of such possession or offer and takes all reasonable means to ascertain and to give information as aforesaid of the name and address of the person from whom the possession or offer was received, or

(*ii*) the property being, as an article of common wearing apparel or otherwise, incapable of identification from the written or printed information given, has been in no way concealed after the receipt of such information,

be punished with fine which may extend to fifty rupees in respect of each such article of property so in his possession or offered to him.

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[1] For India, *see* the Indian Articles of War, 1869 (Act 5 of 1869), as modified up to the 1st December, 1904.

[2] *See* Act 45 of 1860 as modified up to 1st April, 1903.

Melting, etc., of such property.

(*2*) Whoever, having received such information as aforesaid, alters, melts, defaces or puts away or causes or suffers to be altered, melted, defaced or put away without the previous permission of the Police any such property, shall, on proof that the same was stolen property within the meaning of section 410 of the [1] Indian Penal Code, or property in respect of which any offence punishable under section 417, 418, 419 or 420 of the said Code has been committed, be punished with imprisonment for a term which may extend to three years, or with fine, or with both. XLV of 1860.

Taking pledge from child.

117. Whoever takes from any child not appearing to be above the age of fourteen years any article whatsoever as a pawn, pledge or security for any sum of money lent, advanced or delivered to such child, or without the knowledge and consent of the owner of the article buys from such child any article whatsoever, shall be punished with fine which may extend to one hundred rupees.

Cleaning furniture or animal.

118. Whoever in any street or public place—

(*a*) cleans any article of furniture, or any vehicle, or grooms any animal,

Repairing vehicles.

(*b*) except at such times and places as are permitted by the Commissioner of Police, makes, or save in case of an accident rendering repairs on the spot unavoidable, repairs, any part of any vehicle,

Taking animal or vehicle on footpath.

(*c*) rides, drives, leads, propels or places on any footpath any animal, or any vehicle other than a perambulator,

Training and breaking horses.

(*d*) except at such times and places as the Commissioner of Police permits, trains or breaks any horse,

Setting a dog to attack persons or animals.

(*e*) sets on or urges a dog or other animal to attack, worry or put in fear any person or animal,

Letting horses loose, and suffering ferocious dogs to be at large, etc.

(*f*) negligently lets loose any horse or other animal so as to cause danger, injury, alarm or annoyance, or suffers any ferocious dog to be at large without a muzzle.

Obstruction, damage, etc., by animals.

(*g*) causes obstruction, damage or injury by any misbehaviour, negligence or ill usage in the driving, management, treatment or care of any cattle or animal,

Obstructing bathing.

(*h*) obstructs or incommodes a person bathing, at a place at which bathing is permitted, either by wilful intrusion or by improper use of such place, or

Frightening persons, horses, etc., by flying a kite.

(*i*) flies a kite so as to cause danger, injury or alarm to persons, horses or property,

shall be punished with fine which may extend to fifty rupees.

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[1] *See* Act 45 of 1860 as modified up to 1st April, 1903.

Lighting bonfire, burning straw, discharging firearm, etc., in or near street or public place.

119. Whoever in or near any street or public place—

(*a*) sets fire to or burns any straw or other matter,

(*b*) lights a bonfire, or

(*c*) lets off or throws a firework,

and whoever in or within two hundred yards of any street or public place,

(*d*) wantonly discharges a firearm or air-gun, or

(e) sends up a fire balloon or rocket,

except at such times and places as the Commissioner of Police from time to time permits, shall, in any case falling under clause (*d*) or (*e*) of this section, be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, and in any other case be punished with fine which may extend to fifty rupees.

Soliciting for purposes of prostitution and indecent exposure of person.

120. Whoever in any street or public place or place of public resort, or within sight of, and in such manner as to be seen or heard from, any street or public place, whether from within any house or building or not,—

(*a*) by words, gestures or otherwise attracts or endeavours to attract attention for the purpose of prostitution,

(*b*) solicits or molests any person for the purpose of prostitution, or

(*c*) wilfully and indecently exposes his person,

shall be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees.

Begging and exposure of offensive ailments.

121. Whoever in any street or public place begs or directs or permits children under his control to beg, or applies for alms or exposes or exhibits with the object of obtaining or extorting alms any sores, wound, deformity or disease, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees, or with both.

Drunkenness or riotous or disorderly behaviour in street, etc.

122. Whoever in any street or public place or place of public resort—

(*a*) is drunk and incapable of taking care of himself,

(*b*) behaves in a riotous, indecent or disorderly manner, or

Provoking breach of the peace.

(*c*) uses any threatening, abusive, insulting or obscene words or gestures whereby a breach of the peace or public nuisance may be occasioned,

shall be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees.

Disorderly conduct in Court and Police offices.

123. Whoever in any Court or Police station or office behaves in a violent, disorderly or indecent manner, shall be punished with fine which may extend to fifty rupees.

Committing nuisance in or near street, etc.

124. Whoever in or near to any street, public place or place of public resort—

(*a*) commits a nuisance by easing himself, or

(*b*) having the care or custody of any child under seven years of age suffers such child to commit a nuisance as aforesaid

shall be punished with fine which may extend to fifty rupees.

Permission of disorderly conduct in places of public amusement, etc.

125. Whoever, being the keeper of any place of public amusement or entertainment, knowingly—

(*a*) permits drunkenness or other disorderly behaviour, or any gaming whatsoever, in such place, or

(*b*) permits prostitutes, or persons of notoriously bad character, to meet or remain in such place,

hall be punished with fine which may extend to one hundred rupees.

Cheating at games.

126. Whoever, by any fraud or unlawful device or malpractice in playing at or with cards, dice or other game, or in taking a part in the stakes or wagers, or in betting on the sides or hands of the players, or in wagering on the event of any game, sport, pastime or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of cheating within the meaning of section 415 of the [1]Indian Penal Code, and be liable to punishment accordingly. XLV of 1860.

Contravention of rules and orders.

127. Whoever—

(*a*) contravenes any rule made under section 22 or any order or prohibition lawfully given under sub-section (*3*) of section 22 or under section 23, or

(*b*) disobeys or fails to conform to any lawful and reasonable direction given by any Police officer in conformity with this Act or with any rule made thereunder, or

(*c*) opposes or disobeys or fails to conform to any direction notified by the Commissioner of Police under section 27, or abets opposition to or disobedience of any such direction,

shall,—

(*i*) for any contravention of a rule made under section 22, if the rule contravened be one made under clause (*a*), (*b*) or (*c*), or under sub-clause (*i*) or (*ii*) of clause (*f*), be punished with fine which may extend to fifty rupees, and if it be one made under clause (*d*) or (*e*) or under sub-clause (*iii*), (*iv*) or (*v*) of clause (*f*), be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, or with both;

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[1] *See* Act 45 of 1860 as modified up to 1st April, 1903.

Chapter VII.—Offences and Punishments. Secs. 128-131. Chapter VIII.—Miscellaneous. Sec. 132.)

(*ii*) for any contravention of a prohibition given under sub-section (*2*) or (*3*) of section 23, or in any case falling under clause (*c*) of this section be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both; and

(*iii*) in any other case, be punished with fine which may extend to one hundred rupees.

Unauthorized return after removal from Bombay.

128. Whoever, within two years from the date of his removal under the provisions of section 27, returns to any place within the City of Bombay, without the permission in writing of the Commissioner of Police, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Prostitute, etc., not complying with notice.

129. Any person on whom a notice under section 28 shall have been served, disobeying the requisition therein contained, shall be punished with imprisonment for a term which may extend

(*a*) in the case of a first offence, to one month, and

(*b*) in the case of a second or subsequent offence, to three months.

Prosecution for certain offences to be discretionary.

130. It shall not be incumbent on the Commissioner of Police, or any Superintendent specially authorized in writing in that behalf by the Commissioner, to prosecute for any offence punishable under sub-section (*3*) of section 10, section 118, 119, 122, 127 or 128, save in obedience to a rule or order made by the Governor in Council or when such offence has occasioned serious mischief.

Prosecution for offences under other enactments.

131. Nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other enactment for any offence made punishable by this Act, or from being prosecuted and punished under this Act, for an offence punishable under any other enactment: Provided that all such cases shall be subject to the provisions of section 403 of the V of 1898. [1] Code of Criminal Procedure.

CHAPTER VIII.

MISCELLANEOUS.

Disposal of fees, rewards, etc.

132. All fees paid for licenses or written permissions issued under this Act, and all sums paid for the service of processes by Police officers, and all rewards, forfeitures and penalties or shares thereof which are by law payable to Police officers as informers, shall, save in so far as any such fees or sums belong, under the provisions of any enactment in force, to the Municipality, be credited to Government:

[1] *See* Act V of 1898 as modified up to 1st April, 1903.

Provided that, with the sanction of the Governor in Council, or under any rule made by the Governor in Council in that behalf, the whole or any portion of any such reward, forfeiture or penalty may, for special services, be paid to a Police officer, or be divided amongst two or more Police officers.

Method of proving orders and notifications.

133. Any order or notification published or issued by the Governor in Council or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof, may be proved by the production of a copy thereof in the *Bombay Government Gazette*, or of a copy thereof signed by such Magistrate or officer, and by him certified to be a true copy of an original published or issued according to the provisions of the section of this Act applicable thereto.

Rules and orders not invalidated by defect of form or irregularity in procedure.

134. No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision of this Act or of any rule made under this Act, or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or publication or any irregularity of procedure.

Application by person interested to annul, etc., rule or order.

135. (*1*) In the case of any rule or order made by the Governor in Council under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent to any person interested to apply to the Governor in Council by a memorial addressed to a Secretary to Government, to annul, reverse or alter such rule or order on the ground of its being unlawful, oppressive or unreasonable.

When suit will lie to declare order unlawful.

(*2*) If such an application has been wholly or in part rejected, or if after the lapse of four months no answer thereto or decision thereon has been received from or published by the Governor in Council, it shall be competent to the person interested to institute a suit against Government for a declaration that such rule or order is unlawful either wholly or in part. Any such rule or order finally adjudged to be unlawful shall be annulled or reversed or so altered as to make it conformable to law.

Licenses and written permissions to specify conditions, etc., and to be signed.

136. (*1*) Any license or written permission granted under the provisions of this Act shall specify the period and locality for which, and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the Commissioner of Police : and such fee shall be charged therefor as is prescribed by any rule under this Act on that behalf.

Revocation of licenses, etc.

(*2*) Any license or written permission granted under this Act may at any time be suspended or revoked by the Commissioner of Police, if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such license or permission relates.

When license

(*3*) When any such license or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person

to whom the same was granted shall, for all purposes of this Act, be deemed to be without a license or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be. revoked, etc., grantee to be deemed without license.

(*4*) Every person to whom any such license or written permission has been granted shall, while the same remains in force, at all reasonable times, produce the same, if so required by a Police officer. Grantee to produce license, etc., when required.

137. Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of the Commissioner of Police and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in such local newspapers, English or Vernacular, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable. Public notices how to be given.

138. Whenever under this Act the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner of Police or of any other Police officer, a written document signed by the Commissioner of Police or by such officer purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof. Consent, etc., of Commissioner of Police may be proved by writing under his signature.

139. Every license, written permission, notice, or other document, not being a summons or warrant, or search warrant, required by this Act, or by any rule thereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon. Signature on notices, etc., may be stamped.

140. (*1*) No Magistrate or Police officer shall be liable to any penalty or to payment of damages on account of any act done in [1]good faith in pursuance or intended pursuance of any duty imposed or authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder. Magistrate or Police officer not liable to penalty or damages for act done in good faith in discharge of duty.

(*2*) No public servant or person duly appointed or authorised shall be liable as aforesaid for giving effect in [1] good faith to any such order or direction issued with apparent authority by the Governor in Council or by a person empowered in that behalf under this Act or any rule made thereunder. Nor public servants, etc., for giving effect in good faith to rule, etc., issued with apparent authority.

(*3*) In any case of an alleged offence by a Magistrate, Police officer or other person or of a wrong alleged to have been done by such Magistrate, Prosecutions or suits for acts done

[1] As to definition of "good faith" *see* s. 52 of the Indian Penal Code (Act 45 of 1860) as modified up to 1st April, 1903, and s. 3 (*20*) of the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), *infra*, p. 1708.

under colour of duty barred after three months.

Police officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence or wrong, if committed or done, was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted more than three months after the date of the act complained of.

Suits in certain cases to be dismissed.

(*4*) The plaint in any such suit shall be rejected if it does not expressly allege that the act complained of was done maliciously and without reasonable or probable cause; and any such suit shall be dismissed if, in the case of an action for damages, tender of sufficient amends shall have been made before the suit was brought, or a sufficient sum of money is paid into Court, with costs, by or on behalf of the defendant, after the institution of the suit.

SCHEDULE A.

Enactments repealed (vide *Section* 2 (*1*)).

Year.	No.	Subject or Title.	Extent or repeal.
1856	XIII	An Act for regulating the Police of the Towns of Calcutta, Madras and Bombay.	So far as it affects the Town of Bombay so much as has not been repealed.
1866	XLVIII	An Act to amend Act XIII of 1856.	So far as it affects the Town of Bombay so much as has not been repealed.
[1]1896	V	The Code of Criminal Procedure.	In sub-section (*2*) of sections 54, 55, 56 and 127 and in sub-section (*4*) of section 84, *the letter* s *in the word* Towns *and the words* and Bombay. The whole of Chapter IX so far as it applies to the Town of Bombay. Sub-section (*2*) of section 83 and sections 85, 86 and 155 so far as they apply to the Police in the Town of Bombay.

SCHEDULE B.

Certificate to be received by Police officers appointed by the Commissioner of Police (vide *Section 8* (*1*)).

A. B. has been appointed by the Commissioner of Police for the City of Bombay to the Police of the City of Bombay, and is vested with the powers, functions and privileges of a Police officer under the City of Bombay Police Act, 1902.

Commissioner of Police.

[1] *See* Act 5 of 1898 as modified up to 1st April, 1903.

BOMBAY ACT No. I OF 1903.[1]

[*11th June, 1903.*]

An Act further to amend the [2]Bombay A'bkári Act, 1878.

Bom. V of 1878.

WHEREAS it is expedient further to amend the [2]Bombay Ábkárí Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be cited as the Bombay A'bkárí (Amendment) Act, 1903.

Bom. V of 1878.

Amendment of section 3.

2. In clause (7) of section 3 of the [2]Bombay A'bkárí Act, 1878, after the words " spirits of wine " the words " methylated spirits " shall be inserted; and after the word " alcohol " the following shall be added, namely :—

" and

'spirits' means any liquor containing alcohol and obtained by distillation, whether it be denaturalised so as to render it unfit for human consumption or not."

BOMBAY ACT No. II OF 1903.[3]

[*11th June, 1903.*]

An Act further to amend the [4]Bombay Boiler Inspection Act, 1891.

Bom. II of 1891.

WHEREAS it is expedient further to amend the [4] Bombay Boiler Inspection Act, 1891, in manner hereinafter appearing; It is hereby enacted as follows :—

Bom. II of 1891.

Addition to section 1, sub-section (3).

1. To section 1, sub-section (*3*) of the Bombay Boiler Inspection Act, 1891, the following words shall be added, namely :—

" or to any boiler or prime-mover used upon any vehicle or class of vehicles which the Governor in Council may, by notification in the *Bombay Government Gazette*, specify in this behalf. "

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[1]For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1903, Pt. VII, p. 2, and for Proceedings in Council, *see ibid*, 1903, Pt. VII, p. 40.

[2]Vol. II of this Code, p. 583.

[3]For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1903, Pt. VII, p. 3, and for Proceedings in Council, *see ibid*, 1903, Pt. VII, p. 42.

[4]Vol. III of this Code, p. 1377.

BOMBAY ACT No. III OF 1903.[1]

[*11th June, 1903.*]

An Act further to amend the [2] Bombay District Municipal Act, 1901.

WHEREAS it is expedient further to amend the Bombay District Municipal Act, 1901, in manner hereinafter appearing; It is hereby enacted as follows :— Bom. III of 1901.

Repeal of part of section 52.

1. In clause (*a*) of the second proviso to section 52 of the Bombay District Municipal Act, 1901, hereinafter called "the said Act," the words "throughout the line of country in which such works are situate, or contiguous to such line of country" are repealed. Bom. III of 1901.

Amendment of sections 188 and 189

2. (*1*) In section 188, sub-section (*1*), of the said Act—

(*a*) for clause (*a*) the following clause shall be substituted, namely :—

[*Supra*, p. 1629.]

(*b*) in clause (*c*), for the word "applied" the words "or rules applied or adapted" shall be substituted.

(*2*) In section 189 of the said Act, for the word "extended" the word "applied" shall be substituted.

BOMBAY ACT No. IV OF 1903.[3]

[*11th June, 1903.*]

An Act to provide for the preparation and maintenance of a record-of-righ ts in the lands of the Bombay Presidency.

WHEREAS it is expedient to provide for the preparation and maintenance of a record-of-rights in the lands of the Bombay Presidency in addition to any registers prescribed by or under the [4] Bombay Land-Revenue Code, 1879, and to amend the [5] Code of Civil Procedure and make other provision in relation thereto; Bom. V of 1879. XIV of 1882.

And whereas the previous sanction of His Excellency the Governor

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1903, Pt. VII, p. 4, and for Proceedings in Council, *see ibid*, 1903, Pt. VII, p. 43.

2 *Supra*, p. 1527.

3 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1902, Pt. VII, p. 287; for Report of Select Committee, *see ibid*, 1903, Pt. VII, p. 5, and for Proceedings in Council, *see ibid*, 1902, Pt. VII, p. 351; *ibid*, 1903, Pt. VII, p. 21.

4 Vol. II of this Code, p. 631.

5 *See* Act 14 of 1882 as modified up to 1st December, 1899.

55 & 56 Vict., c. 14. General required by section 5 of the [1] Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows :—

Short title. 1. (*1*) This Act may be called the Bombay Land Record-of-rights Act, 1903.

Local extent. (*2*) Save as otherwise provided by the proviso to sub-section (*3*), this Act extends to the whole of the Presidency of Bombay, except the City of Bombay, Aden and the Scheduled District of the Mehwassi Chiefs' villages as XIV of 1874. defined in the [2] Scheduled Districts Act, 1874.

Commencement. (*3*) It shall come into force at once :

Provided that the provisions of sections 10 to 12 (both inclusive) shall be applied in respect of a village from such date only as the Governor in Council may, by [3] notification published in the *Bombay Government Gazette*, direct that they shall be applied to such village or to the mahál táluka or district in which it is included.

Definitions. 2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) The words "Revenue-officer," "Collector," "Mámlatdár," "Mahálkari," "survey-number," "holder," "holding," "superior holder," "tenant," "landlord," "alienated," "village," "mahál," "táluka" and "district" shall be deemed to have the meanings respectively assigned to them by the [4] Bombay Land-Revenue Code, 1879, as from time to time amended; Bom. V of 1879.

(*b*) "Chávdí" means, in any village in which there is no chávdí, such place as the Collector directs shall be deemed to be the chávdí for the purposes of this Act;

(*c*) "Suit" means a suit to which the provisions of the [5] Code of Civil Procedure are applicable; XIV of 1882.

(*d*) "High Court" includes the Sadar Court in Sind; and

(*e*) "Certified copy" or "certified extract" means a copy or extract, as the case may be, certified in the manner prescribed by section 76 of the [6] Indian Evidence Act, 1872. I of 1872.

(*2*) In Sind the words "*Sind Official Gazette*" and "Mukhtyárkár" shall be deemed to be substituted for the words "*Bombay Government Gazette*" and "Mámlatdár" respectively, wherever they occur in this Act.

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1 Collection of Statutes relating to India, Vol. II, p. 734.
2 General Acts, Vol. II.
3 For notifications issued under this proviso, *see* Bombay Government Gazette, 1907, Pt. I, pp. 724 and 1040 and *ibid*, 1908, Pt. I, p. 5.
4 Vol. II of this Code, p. 631.
5 *See* the Code reprinted as modified up to 1st December, 1895.
6 *See* Act 1 of 1872 as modified up to 1st September, 1906.

Preparation, revision and correction of record-of-rights and register of mutations.

3. (*1*) Save as otherwise provided by section 17, there shall be prepared as soon as conveniently may be and shall thereafter be kept in every village a record-of-rights in all lands belonging thereto, which shall include the following particulars, namely :—

(*a*) the names of persons who are owners, holders, mortgagees, landlords, or tenants of the land, or assignees of the rent or revenue thereof, in the whole or part of any survey number or other holding in the village,

(*b*) the nature and extent of the respective interests of such persons and the conditions or liabilities (if any) attaching thereto,

(*c*) the rent or revenue (if any) payable by or to any of such persons, and

(*d*) such other particulars as the Governor in Council may from time to time by [1] rules prescribe in this behalf.

(*2*) The record shall otherwise be in such form and, subject to the provisions of section 6, be compiled in such manner as the Governor in Council may from time to time by rules prescribe in this behalf.

(*3*) For the purposes of the preparation, correction and maintenance of such record-of-rights, there shall also be kept a register of mutations and such other registers and records as the Governor in Council may by rules prescribe in this behalf.

(*4*) The correctness of the entries in the record-of-rights and register of mutations shall be inquired into, and the particulars thereof revised, by such Revenue-officers and in such manner and to such extent and subject to such appeal as the Governor in Council may from time to time by rules prescribe in this behalf.

Acquisition of rights in land to be reported.

4. (*1*) Subject to any exemption under section 17, any person acquiring, by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as owner, holder, mortgagee, landlord or tenant of the land, or assignee of the rent or revenue thereof, in the whole or part of any survey number or other holding in any village, in which a record-of rights as aforesaid is being prepared or is kept, shall report orally or in writing his acquisition of such right to the village-accountant within three months from the date of such acquisition.

Explanation I.—The rights mentioned above include a mortgage without possession, but do not include an easement or a charge not amounting to a mortgage of the kind specified in section 100 of the [2] Transfer of Property Act, 1882. IV of 1882.

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[1] For rules under s. 3 in conjunction with ss. 5, 9 and 14, *see* Bombay Government Gazette, 1903, Pt. I, p. 1487.

[2] See the reprint of the Act as modified up to 1st December, 1905.

Explanation II.—A person in whose favour a mortgage is discharged or extinguished, or a lease determines, acquires a right within the meaning of this section.

(*2*) Where the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the village-accountant.

Duties of village-accountant in respect of reports under section 4.

5. (*1*) The village-accountant shall, on receipt of any report under section 4, whether made within the prescribed period or not,—

(*a*) at once give a written acknowledgment thereof to the person making the same;

(*b*) at once post up the report, or a copy or an abstract containing the substance thereof, in a conspicuous place in the village chávdí;

(*c*) give notice in writing of such report to all persons appearing from the report to have any interest in the subject-matter thereof; and

(*d*) enter such report in his register of mutations.

Procedure in cases where acquisition of rights not reported under section 4.

(*2*) The village-accountant shall submit a report to the Mámlatdár of the táluka or the Mahálkari of the mahál, in which the village is included, respecting the acquisition of any right of the kind specified in sub-section (*1*) of section 4, which he has reason to believe to have taken place, and of which a report should have been made to him under that section and has not been so made, and such Mámlatdár or Mahálkari, as the case may be, may, if after due inquiry he finds any such acquisition to have taken place, authorize the making of such entry respecting it as he may deem fit.

Duties of village-accountant and Circle-Inspector in respect of objections to correctness of report or entry.

(*3*) Where any objection is made to the correctness of any report under section 4, or of any entry respecting the possession or acquisition of any such right as aforesaid in the register of mutations, either before the village-accountant, or in the course of an inquiry held under sub-section (*4*) of section 3 by a Circle-Inspector, such village-accountant or Circle-Inspector shall give a written acknowledgment of the receipt of the objection to the person making the same, and enter the substance of such objection in the register of mutations, or such other register or record as the Governor in Council [1] may direct in this behalf.

Powers and duties of village-accountant in respect of entries in a record-of-rights.

6. (*1*) No entry regarding the possession or acquisition of any such right as aforesaid shall be made in a record-of-rights by a village-accountant, unless—

(*a*) the making of such entry has been duly authorized, or

(*b*) the correctness of such entry has, under sub-section (*4*) of section 3, been inquired into, and the particulars thereof revised, if necessary,

by a Revenue-officer of a rank not below that of a Circle-Inspector or, in the

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1 For rules containing such directions under sub-section 3 of s. 5 in conjunction with ss. 3, 9 and 14, *see* Bombay Government Gazette, 1903, Pt. I, p. 1487.

case of a disputed entry or one falling under sub-section (*2*) of section 5, not below that of a Mahálkari.

(*2*) The village-accountant shall, for a period of not less than one month before the transfer of any entry from the register of mutations to the record-of-rights, keep a copy of such entry posted up in a conspicuous place in the village, chávdí.

Obligation to furnish information as to rights in land.

7. (*1*) Any person whose rights, interests or liabilities are required to be, or have been, entered in any record or register under this Act shall be bound, on the requisition of any Revenue-officer or village-accountant engaged in compiling or revising the record or register, to furnish or produce for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power:

Provided that no such requisition shall be made by a village-accountant, unless it has been previously countersigned by a Revenue-officer of a rank not below that of a Circle Inspector.

(*2*) A Revenue-officer or village-accountant to whom any information is furnished, or before whom any document is produced under sub-section (*1*) shall at once, if required, give a written acknowledgment thereof to the person furnishing or producing the same, and shall endorse on any such document a note under his signature, stating the fact of its production and the date thereof.

Levy of fee from person neglecting to report or furnish information.

8. Any person neglecting to make the report or furnish the information [1] [or produce the documents] required by section 4 or 7 within the prescribed period shall be liable, at the discretion of the Collector, to be charged a fee not exceeding twenty-five rupees, which shall be leviable as an arrear of land revenue.

Power to require assistance from Landholders, etc., in preparation or revision of maps or plans.

9. For the purpose of preparing or revising any map or plan required for, or in connection with, any record or register under this Act, any Revenue-officer or village-accountant may, subject to such [2] rules as may be from time to time made in this behalf by the Governor in Council, exercise any of the powers of a Survey-officer under sections 96 and 97 of the [3] Bombay Land-Revenue Code, 1879: Bom. V of 1879.

Provided that the power of employing hired labour and assessing the cost thereof under section 97 of the said Code shall not be exercised by a village-accountant or a Revenue-officer of a rank below that of a Mahálkari.

Certified copy of entries in record-of-rights or

10. (*1*) Subject to any exemption under section 17, in any suit relating to land situate in a village, to which the provisions of this section have been applied under sub-section (*3*) of section 1, the plaintiff shall annex to the

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[1] These words were inserted by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), *infra*, p. 1741.

[2] For rules under s. 9 in conjunction with ss. 3, 5 and 14, *see* Bombay Government Gazette, 1903, Pt. I, p. 1487.

[3] Vol. II of this Code, p. 631.

plaint, or, if for any cause which the Court deems sufficient he fails to do so, shall produce within a reasonable time to be fixed by the Court a certified copy of any entry or entries in the record-of-rights regarding the land in respect of which the suit is brought, as well as of any subsequent corrections thereof or additions thereto made in the register of mutations, but not yet entered in the record-of-rights. register of mutations to be annexed to plaint or produced within a reasonable time.

Explanation.—A suit relating to land shall, without prejudice to the generality of the expression, be deemed to include a suit relating to the rent or tenancy of land.

(*2*) In the case of any such suit the following clause shall be deemed to be added to section 54 of the [1] Code of Civil Procedure as clause (*e*), namely :— Plaint to be rejected under section 54 of the Code of Civil Procedure, if certified copy not annexed to plaint or produced within time allowed.

XIV of 1882.

"(*e*) in any suit to which section 10 of the Bombay Land Record-of-rights Act, 1903, applies, if the certified copy therein mentioned is not annexed to the plaint and the plaintiff, on being required by the Court to produce it, fails to do so within the time allowed by the Court."

11. (*1*) In any suit in which a certified copy of any entry or entries in the record-of-rights or register of mutations is annexed to the plaint or otherwise produced under section 10, the Court shall after the decision thereof communicate to the Collector any error which from the evidence appears to have been made in such entry or entries or which results from the decree passed, and a copy of such communication shall be kept with the record of the suit. Communication of errors in such entries by the Court to the Collector.

(*2*) The provisions of sub-section (*1*) shall apply to an Appellate or Revisional Court as well as to a Court of first instance :

Provided that in the case of an appellate or revisional decree passed by the High Court, the communication shall be made by the Court from which the appeal lay or the record was called for.

(*3*) The Collector on receipt of such communication shall cause the entry or entries affected to be corrected in accordance with the decree or decision of the Court, so far as it adjudicates upon any right required to be entered in the record-of-rights or register of mutations.

12. Notwithstanding anything to the contrary in section 87 of the [2]Bombay Land-Revenue Code, 1879, but subject to any exemption under section 17, the Collector shall refuse assistance to any superior holder whose application under section 86 of the said Code relates to lands situate in a village, to which the provisions of this section have been applied under sub-section (*3*) of section 1, and whose claim to such assistance is not supported by an entry or entries duly made in the record-of-rights or register of mutations. Assistance under section 87 of the Bombay Land Revenue Code to be refused if application not supported by record-of-rights or register of mutations.

Bom. V of 1879.

[1] *See* Act 14 of 1882 as modified up to 1st December, 1903.

[2] Vol. II of this Code, p. 631.

Saving of liability to pay land-revenue.

13. No entry or entries made in the record-of-rights or register of mutations shall affect the liability of any person to pay the land-revenue of alienated or unalienated land under the provisions of the [1]Bombay Land-Revenue Code, 1879, or other law for the time being in force relating to the recovery of land-revenue. Bom. V of 1879.

Record-of-rights and register of mutations open to inspection, and extracts and copies to be given.

14. Subject to such [2] rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, the record-of-rights and register of mutations shall be open to the inspection of the public at reasonable hours, and certified extracts therefrom, or certified copies thereof, shall be given to all persons applying for the same :

Provided that—

(*a*) applications for such certified extracts or certified copies may be made to, and such certified extracts or certified copies may be given by, either the village accountant, or the Mámlatdár of the táluka, or the Mahálkari of the máhal, in which the village is included, and

(*b*) no fee shall be charged for any certified copy required for the purpose specified in sub-section (*1*) of section 10.

Bar of suits against Government and Government officers in respect of entries in rights or register or mutations.

15. No suit shall lie against Government or against any officer of Government in respect of a claim to have any entry made in any record or register under this Act, or to have any such entry either omitted or amended.

Provisions as to publication of rules.

16. The power to make rules under this Act shall be subject to the condition of the miles being made after previous publication in the manner specified in section 23 of the [3] General Clauses Act, 1897, and every rule made under this Act shall be published in the *Bombay Government Gazette.* X of 1897.

Power of exemption.

17. The Governor in Council may, by notification published in the *Bombay Government Gazette*, from time to time [4] exempt any specified district, táluka, mahál, village or lands, or class of villages or lands, from the operation of this Act or any of the provisions thereof, and may by a like notification cancel or modify any such order of exemption.

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1 Vol. II of this Code, p. 631.

2 For rules under s. 14 in conjunction with ss. 3, 5 and 9, *see* Bombay Government Gazette, 1903, Pt. I, p. 1487.

3 General Acts, Vol. VI.

4 For notifications exempting certain villages and lands, *see* Bombay Government Gazette, 1904, Pt. I, pp. 68 and 618 and *ibid*, 1907, Pt. I, pp. 241, 456 and 486.

BOMBAY ACT No. V OF 1903.[1]

[*11th June, 1903.*]

An Act to further amend the [2] City of Bombay Municipal Act, 1888.

WHEREAS it is expedient to further amend the [2] City of Bombay Municipal Act, 1888 (as amended by section 1 of [3] Bombay Act II of 1900), in manner hereinafter appearing; It is hereby enacted as follows:—

Bom. III of 1888.

1. In clause (*c*) of sub-section (*2*) of section 74 of the [2] City of Bombay Municipal Act, 1888, for the words "fifteen hundred," where they first occur, the words "two thousand" shall be substituted. Amendment of section 74.

BOMBAY ACT No. 1 OF 1904.

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1902, Pt. VII, p. 403, and for Proceedings in Council, *see ibid.* 1903, Pt. VII, p. 39.

2 Vol. III of this Code, p. 975.

3 *Supra*, p. 1510.

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BOMBAY ACT No. 1 OF 1904.[1]

[*30th May, 1904.*]

An Act for further shortening the language used in Bombay Acts, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Bombay Acts, and to make certain other provisions relating to those Acts; It is hereby enacted as follows:—

Preliminary.

Short title. **1.** This Act may be called the Bombay General Clauses Act, 1904.

Repeal. **2.** The Bombay Acts mentioned in the Schedule are repealed to the extent specified in the fourth column thereof.

General Definitions.

Definitions. **3.** In this Act, and in all Bombay Acts made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

"Abet." (*1*) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the [2]Indian Penal Code; XLV of 1860.

"Act." (*2*) "act," used with reference to an offence or a civil wrong, shall include a series of acts; and words which refer to acts done shall extend also to illegal omissions;

"Affidavit." (*3*) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

"Barrister." (*4*) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;

"Bombay Act." (*5*) "Bombay Act" shall mean an Act made by the Governor of Bombay in Council under the [3] Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892; 24 & 25 Vict., c. 67; 55 & 56 Vict., c. 14.

"*Bombay Government Gazette*." (*6*) "*Bombay Government Gazette*" shall, with reference to Sind, include the *Sind Official Gazette*;

"Bombay Presidency." (*7*) "Bombay Presidency" or "Presidency of Bombay" shall mean the territories within British India for the time being under the administration of the Governor of Bombay in Council;

"British India." (*8*) "British India" shall mean all territories and places within His Majesty's dominions which are for the time being governed by

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1903, Pt. VII, p. 5, 6; for Report of Select Committee, *see ibid*, 1904, Pt. VII, p. 1, and for Proceedings in Council, *see ibid*, 1903, Pt. VII, p. 130, *ibid*, 1904, Pt. VII, p. 42.

2 *See* Act 45 of 1860 as modified up to 1st April, 1903.

3 [Collection of Statutes relating to India, Vols. I and II, respectively].

His Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India;

"Chapter." (*9*) "Chapter" shall mean a Chapter of the Act in which the word occurs;

"City of Bombay." (*10*) "City of Bombay" shall mean the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature;

"Collector." (*11*) "Collector" shall mean, in the City of Bombay, the Collector of Bombay, and elsewhere the chief officer in charge of the revenue-administration of a district;

"Commencement." (*12*) "commencement," used with reference to an Act, shall mean the day on which the Act comes into force;

"Commissioner." (*13*) "Commissioner" shall mean, in Sind, the Commissioner in Sind, and elsewhere the Commissioner of a division appointed under the [1]Bombay Land-Revenue Code, 1879, or any other law for the time being in force in this behalf; Bom. V of 1879.

"Consular Officer." (*14*) "Consular officer" shall include consul-general, consul, vice-consul, consular agent, proconsul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent;

"District Judge." (*15*) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

"Document." (*16*) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter;

"Enactment." (*17*) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid;

"Father." (*18*) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father;

"Financial year." (*19*) "financial year" shall mean the year commencing on the first day of April;

"Good faith." (*20*) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not;

"Government of India." (*21*) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as

[1] Vol. II of this Code, p. 631.

regards the powers which may be lawfully exercised by them or him respectively;

(*22*) "High Court," used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of the Bombay Presidency in which the Act containing the expression operates; "High Court."

(*23*) "His Majesty" or "the King" shall include His successors; "His Majesty" or "the King."

(*24*) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth; "Immoveable property."

(*25*) "imprisonment" shall mean imprisonment of either description as defined in the [1] Indian Penal Code; "Imprisonment."

XLV of 1860.

(*26*) "local authority" shall mean a municipal corporation, municipality, local board, body of port trustees or commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund; "Local authority."

(*27*) "Local Government" shall mean the Governor of Bombay in Council; "Local Government."

(*28*) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force; "Magistrate."

(*29*) "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship; "Master" (of a ship).

(*30*) "month" shall mean a month reckoned according to the British calendar; "Month."

(*31*) "moveable property" shall mean property of every description, except immoveable property; "Moveable property."

(*32*) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing; "Oath."

(*33*) "offence" shall mean any act or omission made punishable by any law for the time being in force; "Offence."

(*34*) "Part" shall mean a Part of the Act in which the word occurs; "Part."

(*35*) "person" shall include any company or association or body of individuals, whether incorporated or not; "Person."

(*36*) "public nuisance" shall mean a public nuisance as defined in the [1] Indian Penal Code; "Public nuisance."

XLV of 1860.

(*37*) "registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents: "Registered."

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1 *See* Act 45 of 1860 as modified up to 1st April, 1903.

"Regulation." (*38*) "Regulation" shall mean a Regulation made under the [1] Government of India Act, 1870; 33 Vict., c. 3.

"Rule." (*39*) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment;

"Schedule." (*40*) "schedule" shall mean a schedule to the Act in which the word occurs;

"Scheduled District." (*41*) "Scheduled District" shall mean a "Scheduled District" as defined in the [2] Scheduled Districts Act, 1874; XIV of 1874.

"Section." (*42*) "section" shall mean a section of the Act in which the word occurs;

"Ship." (*43*) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars;

"Sign." (*44*) "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions;

"Son." (*45*) "son", in the case of any one whose personal law permits adoption, shall include an adopted son;

"Sub-section." (*46*) "sub-section" shall mean a sub-section of the section in which the word occurs;

"Swear." (*47*) "swear", with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

"Vessel." (*48*) "vessel" shall include any ship or boat or any other description of vessel used in navigation;

"Will." (*49*) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property;

"Writing." (*50*) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words or figures in a visible form on any substance; and

"Year." (*51*) "year" shall mean a year reckoned according to the British calendar.

Application of certain of the foregoing definitions to previous Bombay Acts.

4. The definitions in section 3 of the following words, that is to say, "abet", "affidavit", "British India", "Chapter", "City of Bombay", "Collector", "Commissioner", "good faith", "Government of India", "immoveable property", "imprisonment", "Magistrate", "month", "moveable property", "oath", "Part", "person", "Presidency of Bombay", "Schedule", "section", "swear", "vessel", "writing" and "year", apply also, unless there is anything repugnant in the subject or context, to all Bombay Acts made before the commencement of this Act.

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[1] Collection of Statutes relating to India, Vol. I.
[2] General Acts, Vol. II.

General Rules of Construction.

Coming into operation of Bombay Acts.

5. (*1*) Where any Bombay Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it is first published in the *Bombay Government Gazette* after having received the assent of the Governor General.

(*2*) Unless the contrary is expressed, a Bombay Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Printing of date on which Act is published after having received the assent of the Governor General.

6. In this Act, and in every Bombay Act made after the commencement of this Act, the date of such publication as is mentioned in section 5, sub-section (*1*), shall be printed above the title of the Act, and shall form part of the Act.

Effect of Repeal.

7. Where this Act, or any Bombay Act made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(*a*) revive anything not in force or existing at the time at which the repeal takes effect; or

(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(*c*) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(*d*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Revival of repealed enactments.

8. (*1*) In any Bombay Act made after the commencement of this Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Construction of references to repealed enactments.

9. Where this Act, or any Bombay Act made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

(General Rules of Construction. Secs. 10-13. Powers and Functionaries. Secs. 14-16.)

Commencement and termination of time.

10. (*1*) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from", and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Computation of time.

11. Where, by any Bombay Act made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the [1]Indian Limitation Act, 1877, applies. XV of 1877.

Measurement of distances.

12. In the measurement of any distance for the purpose of any Bombay Act made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Gender and number.

13. In all Bombay Acts, unless there is anything repugnant in the subject or context,—

(*a*) words importing the masculine gender shall be taken to include females ; and

(*b*) words in the singular shall include the plural, and *vice versâ*.

Powers and Functionaries.

Powers conferred on the Government to be exercisable from time to time.

14 Where, by any Bombay Act made after the commencement of this Act, any power is conferred on the Government, then that power may be exercised from time to time as occasion requires.

Power to appoint to include power to appoint *ex-officio*.

15. Where, by any Bombay Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

Power to appoint to include power to suspend or dismiss.

16. Where, by any Bombay Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

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[1] *See* Act 15 of 1877 as modified up to 31st December, 1900.

(*Powers and Functionaries. Secs. 17-19. Provisions as to Orders, Rules, etc., made under Enactments. Secs. 20-22.*)

Substitution of functionaries.

17. (*1*) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Successors.

18. (*1*) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Official chiefs and subordinates.

19. (*1*) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Provisions as to Orders, Rules, etc., made under Enactments.

Construction of orders, etc., issued under Bombay Acts.

20. Where, by any Bombay Act, a power to issue any notification, order, scheme, rule, by-law or form is conferred, then expressions used in the notification, order, scheme, rule, by-law or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Power to make to include power to add to, amend, vary or rescind, orders, etc.

21. Where, by any Bombay Act, a power to issue notifications, orders, rules or by-laws is conferred, then that power includes a power, exerciseable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or by-laws so issued.

Making of rules or by-laws and issuing of orders between publication and commencement of

22. Where, by any Bombay Act which is not to come into operation on the day on which it is first published in the *Bombay Government Gazette* after having received the assent of the Governor General, a power is conferred to make rules or by-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time

Bombay Act.

when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised at any time after the Act has been published as aforesaid, but rules, by-laws or orders so made or issued shall not take effect till the commencement of the Act.

Publication of orders and notifications in the *Bombay Government Gazette* to be deemed to be due publication.

23. Where, in any Bombay Act or in any rule passed under any such Act, it is directed that any order, notification or other matter shall be notified or published, then such notification or publication shall, unless the enactment or rule otherwise provides, be deemed to be duly made if it is published in the *Bombay Government Gazette*.

Provisions applicable to making of rules or by-laws after previous publication.

24. Where, by any Bombay Act, a power to make rules or by-laws is expressed to be given subject to the condition of the rules or by-laws being made after previous publication, then the following provisions shall apply, namely—

(*a*) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby;

(*b*) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Local Government prescribes;

(*c*) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(*d*) the authority having power to make the rules or by-laws, and, where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or by-laws from any person with respect to the draft before the date so specified;

(*e*) the publication in the *Bombay Government Gazette* of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

25. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bombay Act with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, by-law or form made or issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, by-law or form made or issued under the provisions so re-enacted.

Miscellaneous.

XLV of 1860. V of 1898.

Recovery of fines.

26. Sections 63 to 70 of the [1] Indian Penal Code, and the provisions of the [2] Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any Bombay Act or any rule or by-law made under any Bombay Act, unless the Act, rule or by-law contains an express provision to the contrary.

Provision as to offences punishable under two or more enactments.

27. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Meaning of service by post.

28. Where any Bombay Act made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

29. (*1*) In any Bombay Act, and in any rule, by-law, instrument or document made under, or with reference to, any Bombay Act, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(*2*) In this Act, and in any Bombay Act made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving for previous Acts, rules and by-laws.

30. Where any Act, rule or by-law made after the commencement of this Act continues or amends any Acts, rules or by-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts, rules or by-laws.

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1 *See* Act 45 of 1860 as modified up to 1st April, 1903.

2 *See* Act 5 of 1898 as modified up to 1st April, 1903.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See Section 2.)

Year.	No.	Title or Subject.	Extent of repeal.
1886 ...	III	The Bombay General Clauses Act, 1886 .	The whole, [1][except as much of [2] Schedule B as relates to unrepealed enactments].
1891 ..	I	An Act to amend the Bombay General Clauses Act, 1886.	So much as is unrepealed.
1896 ...	I	Do. do.	The whole.

[3]SCHEDULE B *to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886).*

VERBAL AMENDMENTS MADE IN THE REGULATIONS AND ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
Regulations. [4] XII of 1827.	19	1	"Magistrate"	"District Magistrate".
	,,	6	"The Magistrate" (the first time the words occur).	"the District Magistrate".
	,,	,,	"the Magistrate" (the second time the words occur).	"any Magistrate".
	,,	,,	"ordinary"	"simple".
	,,	,,	"without labour"	
	,,	7	"Magistrate" (the first time the word occurs).	"District Magistrate".

1 These words were inserted by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), *infra*, p. 1741. They are to be deemed to come into force on the 30th May, 1904, *see* s. 2 (*2*) of that Act.

2 Printed as an appendix to this Act.

3 This schedule so far as it affects unrepealed enactments has been reprinted here as an appendix to Bom. Act I of 1904, as the insertion of certain words in the schedule thereto by Bombay Act 4 of 1905, *infra*, p. 1741, has revived it in so far as it relates to such enactments.

4 Bom. Reg. XII of 1827, s. 19, cls. 1, 6, 7 and 8, is repealed by the Bombay District Police Act, 1890 (Bom. Act 4 of 1890), Vol. III of this Code, wherever that Act extends. For the Regn. see Vol. I of this Code, p. 12.

[1] SCHEDULE B *to the Bombay General Clauses Act*, 1886 (*Bom. Act III of* 1886)—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
Regulations—contd.	19	7	"Magistrate" (the second time the word occurs).	"Magistrate before whom proceedings against such individual are being held".
	,,	8	"the Magistrate shall also" . .	"any Magistrate may".
	20	..	"Magistrate"	"District Magistrate".
	27	2	"Magistrate" (each time the word occurs).	"District Magistrate".
	,,	,,	"ordinary"	"simple."
			"without hard labour" . . .	
	37	1	"Magistrate"	"District or Sub-Divisional Magistrate".
[2] XXII of 1827.	40	..	"Magistrate"	"District Magistrate."
	41	1	"local"	"District."
	42	1	"local"	"District."
	,,	2, 3, 4	"Magistrate" (each time the word occurs).	"District Magistrate".
[3] XXV of 1827.	4	2	"Magistrate" (both times the word occurs).	"District Magistrate".
	7	..	"Magistrate"	"District Magistrate".
Acts.				
[4] IV of 1862	1	..	"the Magistrate" (the second time the words occur).	"a Magistrate of the first class".
	,,	..	"calendar"	
	6	..	"Magistrate"	"District Magistrate".
	,,	..	"this Act"	"section 4".
	,,	..	"of Police"	
	7	..	"of either kind"	
	,,	..	"calendar"	
	10	..	"Magistrate"	"District Magistrate".
	,,	..	"of Police"	
[5] II of 1863	2	..	"of this Act" (the first time the words occur).	
	3, 4, 5, 7, 8, 10, 11 and 13.	..	"of this Act" (each time the words occur).	
	4, 5 and 11.	..	"calendar" (each time the word occurs).	
	5 and 11.	..	"collectorate or" (each time the words occur).	
	11	4	"collectorate"	"district".
	,,	6	"collectorate" (each time the word occurs).	"district".

[1] This schedule so far as it affects unrepealed enactments has been reprinted here as an appendix to Bom. Act I of 1904, as the insertion of certain words in the schedule thereto by Bombay Act 4 of 1905, *infra*, p. 1741, has revived it in so far as it relates to such enactments.

[2] Vol. I of this Code, p. 16.

[3] Vol. I of this Code, p. 18.

[4] Vol. II of this Code, p. 370.

[5] Vol. II of this Code, p. 386.

[1]SCHEDULE B *to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)*—continued.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
Acts—contd.	6	...	"of this Act" (the first time the words occur).	
[2] VII of 1863	7, 8, 9, 11, 12, 13 and 26.	...	"of this Act" (each time the words occur).	
	9	1 and 2	"collectorate or" (each time the words occur).	
	,,	3, 4, 6 and 7.	"collectorate" (each time the word occurs).	"district".
	,,	8	"calendar"	
	,,	9	"Revenue"	
	,,	9	"of the division"	
	12	..	"or Sub-Collector" . . .	
	20	2	"annexed"	
[3] VII of 1867	34	..	"of this Act" (each time the words occur).	
	34	...	"full-power Magistrate" . .	"Magistrate of the first class".
[4] VIII of 1867	[5][1	...	"Commissioner of Police" Act, 1861.	"Acts, 1867 and 1890"].
	3,4,5,15 and 18.	...	"of Police" (wherever in the said sections those words follow the word "Commissioner").	
,,	5 and 9	...	"Police" (in each place in which the word precedes the word "Commissioner").	
	18	...	"of this Act"	
[6] V of 1878	3	3	"means, in Sindh, the Commissioner in Sindh and elsewhere a Commissioner of land-revenue, or, if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer".	"includes an officer appointed by Government to be a Commissioner for the purposes of this Act".
	3	4	"means a Collector of land-revenue or".	"includes".
	45 and 50.	...	"of this Act" (each time the words occur).	

[1] This schedule so far as it affects unrepealed enactments has been reprinted here as an appendix to Bom. Act 1 of 1904, as the insertion of certain words in the schedule thereto by Bombay Act I of 1905, *infra*, p. 1741, has revived it in so far as it relates to such enactments.

[2] Vol. II of this Code, p. 437.

[3] So much of this Schedule as relates to any section of Bom. Act 7 of 1867 except s. 34 is omitted as that Act except ss. 33 and 34 was repealed by the Bombay District Police Act, 1890 (Bom. Act 4 of 1890), wherever that Act extends. For Act 7 of 1867, *see* Vol. II of this Code, p. 475, and for Bom. Act 4 of 1890, *see* Vol. III, p. 1337.

[4] Vol. II of this Code, p. 478.

[5] Inserted by the Bombay General Clauses Amendment Act, 1891 (Bom. Act 1 of 1891).

[6] Vol. II of this Code, p. 583.

BOMBAY ACT No. II OF 1904.[1]

[*30th May, 1904.*]

An Act to regulate the use of motor-vehicles in the Bombay Presidency.

WHEREAS it is expedient to regulate the use of motor-vehicles in the Bombay Presidency; It is hereby enacted as follows :—

Short title. **1.** (*1*) This Act may be called the Bombay Motor-vehicles Act, 1904.

Extent. (*2*) It shall extend to the whole of the Bombay Presidency, except Aden.

Definition. (*3*) "Motor-vehicle" shall include all vehicles propelled by mechanical means on ordinary roads, other than such vehicles or classes of vehicle as the Governor in Council may, by notification published in the *Bombay Government Gazette*, [2] exempt.

Reckless driving. **2.** Whoever drives a motor-vehicle recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and to the amount of traffic which actually is at the time, or which might reasonably be expected to be, on the road, may on conviction be punished with fine which may extend to one hundred rupees, or, in the case of a second or subsequent conviction, to two hundred rupees.

Duty to stop in case of accident. **3.** (*1*) Where any accident occurs to any person, whether on foot, on horse-back, or in a vehicle, or to any horse or vehicle in charge of any person, owing to the presence of a motor-vehicle on the road, whoever is in charge of such motor-vehicle shall stop, and, if required, give his name and address, and also the name and address of the owner of such motor-vehicle.

Penalty. (*2*) Any voluntary breach of sub-section (*1*) may on conviction be punished with fine which may extend to fifty rupees, or, in the case of a second or subsequent conviction, to one hundred rupees.

Driving without license. **4.** (*1*) Whoever drives a motor-vehicle without a license granted for the purpose under sub-section (*2*), or under any enactment other than this Act in force for the time being in any part of British India, or employs to drive a motor-vehicle any person who is not so licensed, may on conviction be punished with fine which may extend to fifty rupees, or, in the case of a second or subsequent conviction, to one hundred rupees.

Grant of license. (*2*) A license to drive a motor-vehicle shall be granted, in the City of Bombay by the Commissioner of Police and elsewhere by the District

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1903, Pt. VII, p. 67; for Report of Select Committee, *see ibid*, 1904, Pt. VII, p. 13, and for Proceedings in Council, *see ibid*, 1903, Pt. VII, p. 191, *ibid*, 1904, Pt. VII, p. 50.

The Act has been extended to Aden subject to certain modifications, under sections 5 and 5A, of the Scheduled Districts Act, 1874 (14 of 1874), with effect from 1st June, 1908, *see* Bombay Government Gazette, 1908, Pt. I, p. 732.

2 For notification exempting traction engines and steam rollers, *see* Bombay Government Gazette, 1904, Pt. I, p. 989.

Magistrate, to any person over the age of eighteen years applying for it, who is not disqualified under section 8, on payment of a fee of two rupees.

Payment of City of Bombay fees to the municipal fund.

(*3*) The Commissioner of Police for the City of Bombay shall, on or before the thirty-first day of January in each year, pay to the credit of the municipal fund specified in section 3 of the [1] City of Bombay Municipal Act, 1888, [2] [the balance, after all expenses incurred in administering this Act in the City of Bombay have been defrayed] of the fees received by him for licenses granted by him under sub-section (*2*) in the preceding year. Bom. III of 1888.

Duration and renewal of license.

5. Every license shall remain in force for a period of twelve months from the date on which it is granted, but shall be renewable, and the same provisions shall apply to the renewal of the license as apply to the grant thereof.

Production of license.

6. The driver of a motor-vehicle shall produce his license upon demand by any police-officer above the rank of constable.

Licenses not transferable.

7. The holder of a license shall not lend it to, nor allow it to be used by, any other person.

Suspension and disqualification.

8. (*1*) Any Court by whom any person is convicted of an offence under this Act, or of any offence in connection with the driving of a motor-vehicle,

(*a*) where the person convicted holds a license to drive a motor-vehicle granted under section 4, sub-section (*2*), or under any enactment other than this Act in force for the time being in any part of British India,

(*i*) may suspend such license for such time as the Court thinks fit, and may also declare such person disqualified for obtaining a license for such further time after the expiration thereof as the Court thinks fit, and

(*ii*) shall cause particulars of the conviction and of any order of the Court made under this clause to be endorsed upon such license and shall also cause a copy of these particulars to be sent to the authority by which such license has been granted, and,

(*b*) where the person convicted does not hold such a license, may declare him disqualified for obtaining a license for such time as the Court thinks fit.

Production of license for endorsement.

(*2*) Any person so convicted shall, if he holds such a license, produce it for endorsement within such period as the Court thinks fit to direct.

Effect of order under sub-section (1).

(*3*) A license suspended under sub-clause (*i*) of clause (*a*) of sub-section (*1*) shall during the period of suspension be of no effect, and a person whose license is so suspended, or who is declared, under sub-clause (*i*) of clause (*a*), or under clause (*b*), of sub-section (*1*), to be disqualified for obtaining a license, shall during the period of suspension or disqualification be disqualified for obtaining a license.

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[1] Vol. III of this Code, p. 975.

[2] These words were substituted by s. 24 of the City of Bombay Police Charges Act, 1907 (Bom. Act 3 of 1907), *infra*, p. 1775, for the words "the total amount".

(*4*) No person who is disqualified for obtaining a license shall apply for, or obtain, a license, and no person whose license has been endorsed shall apply for, or obtain, a license without giving particulars of the endorsement; and any license held by a person who is so disqualified shall during the period of disqualification be of no effect. Application by disqualified person. License held by such person void.

9. (*1*) The Governor in Council may, by notification[1] published in the *Bombay Government Gazette*, prohibit within any area or along any road specified in such notification the letting or plying for hire of any motor-vehicle except under a permit granted by the Governor in Council, or by such officer, if any, as he may appoint in this behalf, subject to such general or special conditions as the Governor in Council or such officer may see fit to prescribe. Power of Governor in Council to prohibit letting or plying for hire except under permit.

(*2*) The grant of any such permit shall be at the absolute discretion of the Governor in Council or of such officer, subject to the control of the Governor in Council:

Provided that the grant of a permit under sub-section (*1*) shall not in any way hinder or restrict the grant of another permit to any other person.

10. (*1*) The Governor in Council may, by notification published in the *Bombay Government Gazette*, make [2] rules to regulate the use of motor-vehicles, and may by a like notification direct that any such rule shall apply to the whole or to any part of the Bombay Presidency. Power of Governor in Council to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Governor in Council may make rules under this section containing directions as to all or any of the following matters, namely :—

(*a*) the speed at which motor-vehicles may be driven,

(*b*) prescribing the form of application under section 4, sub-section (*2*), and the form of license to be granted under that sub-section,

(*c*) the displaying of numbers or names on motor-vehicles, and the registration thereof,

(*d*) prohibiting the driving of motor-vehicles on foot-ways, roads, streets or ghâts, or in hill-stations or other places, where their use may be attended with danger to the public; or regulating the hours within which motor-vehicles may be driven, or the hours within which no vehicle other than a motor-vehicle shall be driven, on any such foot-way, road, street or ghât not vested in any municipality, or in any such hill-station or other place,

(*e*) the carrying and use of a horn, bell or other instrument on motor-vehicles for giving audible and sufficient warning of their approach or position,

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[1] For such notification affecting the Settlement and Cantonment of Aden, *see* Bombay Government Gazette, 1908, Pt. I, p. 733.

[2] For rules applying to the whole of the Bombay Presidency, except Aden, *see* Bombay Government Gazette, 1906, Pt. I, p. 1636.

(*f*) the carrying of lights on motor-vehicles between sunset and sunrise and the description of such lights and the position in which they should be placed,

(*g*) the stoppage of motor-vehicles when required by the police for the regulation of traffic or for other reasonable purpose, and

(*h*) generally, the prevention of danger or injury to persons, animals, vehicles or goods, and the prevention of obstruction to traffic.

Local authorities to post notices and erect sign-posts.

11. Every municipality, cantonment authority and district local board, within their respective areas,

(*a*) shall, for the purpose of giving effect to any rule of local application made under section 10, sub-section (*2*), clause (*a*) or (*d*), post notices in conspicuous places on or near the foot-way, road, street, ghát or in or near the place to which such rule refers, and

(*b*) may erect sign-posts denoting dangerous corners, cross roads and precipitous places, where sign-posts appear to them to be necessary.

Breach of section or rule.

12. Any breach of section 6, or 7, or sub-section (*2*) or (*4*) of section 8, or of any rule made under section 10, may on conviction be punished with fine which may extend to fifty rupees, or, in the case of a second or subsequent conviction, to one hundred rupees.

Breach of prohibition made, or condition of permit granted, under section 9.

13. Any breach of any prohibition made, or of any condition of any permit granted, under section 9, sub-section (*1*), may on conviction be punished with fine which may extend to two hundred and fifty rupees, or, in the case of a second or subsequent conviction, to five hundred rupees.

Offences by whom triable.

14. Offences under this Act shall be triable by Presidency Magistrates or by any Magistrate of the first or second class within whose jurisdiction any such offence may have been committed.

Saving of liability.

15. Nothing in this Act shall affect any liability whatever, whether civil or criminal, of the driver or owner of a motor-vehicle arising from any other enactment or otherwise.

Previous publication.

16. The power to make rules under section 10, and prohibitions under section 9, sub-section (*1*), shall be subject to the condition of previous publication.

BOMBAY ACT No. III OF 1904.[1]

[*21st June, 1904.*]

An Act to amend the [2]Khotí Settlement Act, 1880.

WHEREAS it is expedient to amend the [2] Khotí Settlement Act, Bom. I of 1880.

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1903, Pt. VII, p. 62; for Report of Select Committee, *see ibid*, 1904, Pt. VII, p. 20; and for Proceedings in Council, *see ibid*, 1903, Pt. VII, p. 182; *ibid*, 1904, Pt. VII, p. 42.

2 Vol. II of this Code, p. 766.

1880, in manner hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Khotí Settlement Act Amendment Act, 1904.

Bom. I of 1880. Insertion of new clause in section 3. 2. In section 3 of the Khotí Settlement Act, 1880, hereinafter called " the said Act," the following shall be inserted as clause (*11*), namely :—

[*Vol. II of this Code, p.* 777.]

Repeal of section 13. 3. Section 13 of the said Act is hereby repealed.

Substitution of new sections for sections 17 to 22, both inclusive. 4. For sections 17 to 22, both inclusive, of the said Act, the following shall be substituted, namely :—

[*Vol. II of this Code, p.* 781.]

Insertion of words in section 27. 5. In the second paragraph of section 27 of the said Act, the following shall be inserted, namely :—

[*Vol. II of this Code, p.* 785.]

Amendment of section 28. 6. For the first paragraph of section 28 of the said Act, the following shall be substituted, namely :—

[*Vol. II of this Code, p.* 786.]

Repeal and insertion of words in section 29. 7. In section 29 of the said Act, the words " Except as is hereinafter provided " are hereby repealed, and after the words " every managing khot " there shall be inserted the following, namely :—

" nominated or selected under section 27 ".

Insertion of a new section after section 31. 8. After section 31 of the said Act, the following new section shall be inserted, namely :—

[*Vol. II of this Code, p.* 787.]

Amendment of section 33. 9. In section 33 of the said Act, for clause (*c*) the following shall be substituted, namely :—

[*Vol. II of this Code, p.* 788.]

Amendment of section 39. 10. In section 39 of the said Act, after the word and figures " 104, paragraph 2 " the figures " 109, 110," shall be inserted.

Amendment of section 41. 11. (*1*) In section 41 of the said Act, after the words " a reserved forest " the words " in accordance with the procedure enacted in Chapter II of the VII of 1878. [1]Indian Forest Act, 1878 ", shall be inserted.

With retrospective effect. (*2*) The amendment aforesaid shall be deemed to have been made and to have effect from the date of the commencement of the [2]Khotí Settlement Act, Bom. I of 1880. 1880.

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1 Reprinted as modified up to 1st December, 1903.
2 Vol. II of this Code, p. 776.

(*Secs. 1-10.*)

BOMBAY ACT No. IV OF 1904.[1]

[*4th November, 1904.*]

An Act further to amend the [2] Bombay District Municipal Act, 1901.

WHEREAS it is expedient further to amend the [2] Bombay District Municipal Act, 1901, in manner hereinafter appearing; It is hereby enacted as follows:— Bom. Act III of 1901.

Insertion of words in section 25, clause (*a*).

1. In section 25, clause (*a*), of the [2] Bombay District Municipal Act, 1901, hereinafter called "the said Act", before the word "sub-section" the words "clause (*a*) of" shall be inserted.

Repeal of a word in section 46, clause (*e*).

2. In section 46, clause (*e*), of the said Act, the word "such", in both places where it occurs, is repealed.

Insertion of a new clause in section 48.

3. After section 48, sub-section (*1*), clause (*e*), of the said Act, the following clause shall be inserted, namely:—

"(*ee*) for defining the standard weights and measures used within the municipal district;"

Repeal of words in section 59, proviso (*c*).

4. In section 59, proviso (*c*), of the said Act, the words "of sub-section (*1*)" are repealed.

Substitution of words in section 83, sub-section (*1*), clause (*b*).

5. In section 83, sub-section (*1*), clause (*b*), of the said Act, for the word "to", in the second and third places where it occurs, the word "of" shall be substituted.

Substitution of words in section 84, sub-section (*3*).

6. In section 84, sub-section (*3*), of the said Act, for the word "sale,"

(*a*) in the first place where it occurs, the word "notice", and

(*b*) in the second place where it occurs, the word "date",

shall be substituted.

Repeal of words in section 96, sub-section (*6*).

7. In section 96, sub-section (*6*), of the said Act, the words "they may" are repealed.

Insertion of a word in section 113, sub-section (*1*).

8. In section 113, sub-section (*1*), of the said Act, after the word "weather-boards" the word "shop-boards" shall be inserted.

Addition of a sub-section to section 122.

9. To section 122 of the said Act the following sub-section shall be added, namely:—

[*Supra*, p. 1597.]

Repeal of a word in section 174, sub-section (*1*).

10. In section 174, sub-section (*1*), of the said Act, the word "which" in the second place where it occurs, is repealed.

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1903, Pt. VII, p. 47; for Report of Select Committee, *see ibid*, 1904, Pt. VII, pp. 10, 71, and for Proceedings in Council, *see ibid*, 1903, Pt. VII, p. 129; *ibid*, 1904, Pt. VII, pp. 41, 49 and 144.

2 *Supra*, p. 1527.

BOMBAY ACT No. I OF 1905.[1]

[*3rd June, 1905.*]

An Act to establish a Court of Wards in the Bombay Presidency.

WHEREAS it is expedient to establish a Court of Wards in the Bombay Presidency; Preamble.

And whereas the previous sanction of the Governor General required by section 5 of the [2] Indian Councils Act, 1892, has been obtained for the passing of this Act; 55 and 56 Vict., c. 14.

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Bombay Court of Wards Act, 1905. Short title.

(*2*) It shall extend to the whole of the Bombay Presidency, except the City of Bombay and Aden. Extent.

2. In this Act unless there is anything repugnant in the subject or context, Definitions.

(*a*) "Government ward" shall mean any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act;

(*b*) "land-holder" shall mean,

(*i*) in the case of minors and persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs, a holder as defined in the [3] Bombay Land-Revenue Code, 1879; and Bom. V of 1879.

(*ii*) in all other cases, a zamindár, jágirdár, saranjámdár, inámdár, tálukdár, malek, and a khot, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Governor in Council has declared the members to be land-holders for the purposes of this Act:

provided that no person who permanently resides, or carries on business, or personally works for gain, in the City of Bombay shall be deemed or declared to be a land-holder for the purposes of this Act;

(*c*) "District Court" shall include the Court of an Assistant Judge invested under section 19 of the [4] Bombay Civil Courts Act, 1869, with all the powers of a District Judge; and XIV of 1869.

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1904, Pt. VII, p. 83; for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 14, and for Proceedings in Council, *see ibid*, 1904, Pt. VII, pp. 144, 208; *ibid*, 1905, Pt. VII, p. 42.

2 Collection of Statutes relating to India, Vol. II, p. 734.

3 Vol. II of this Code, p. 631.

4 Vol. I of this Code, p. 92.

(*d*) "minor" shall mean a person who, under the provisions of the [1] Indian Majority Act, 1875, is to be deemed not to have attained his majority. IX of 1875.

Commissioner to be Court of Wards.

3. Subject to the provisions of section 12, the Commissioner shall be the Court of Wards for the limits of his division:

provided that the Governor in Council may, if he thinks fit, by notification in the *Bombay Government Gazette*,

(*a*) appoint a special officer to be the Court of Wards for a division in lieu of the Commissioner; or

(*b*) constitute a board consisting of the Commissioner and any other officer or officers to be the Court of Wards for a division; or

(*c*) [2] appoint any other officer or officers to be a Court of Wards for any part of the Bombay Presidency, and direct that such part shall thereupon be excluded from the jurisdiction of the Court of Wards of any division in which it lies wholly or partly.

Assumption of superintendence by Court of Wards of property of disqualified land-holder.

4. (*1*) The Court of Wards may, with the previous sanction of the Governor in Council, assume the superintendence of the property of any land-holder holding land within the local limits of its jurisdiction who is disqualified to manage his own property:

provided that in the case of a land-holder disqualified under clause (*b*) or (*c*) of sub-section (*1*) of section 5 such assumption shall be sanctioned only where the Governor in Council is of opinion that it is expedient in the public interests to preserve the property of such land-holder for the benefit of his family, and that the said property is of such value that economical management by the Court of Wards is practicable.

(*2*) No sanction given under sub-section (*1*) shall be called in question in any Court, except in the case of a land-holder disqualified under section 5, sub-section (*1*), clause (*a*), where proceedings are instituted within three months of the giving of the sanction.

Land-holders to be deemed disqualified in certain cases.

5. (*1*) The following land-holders shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely:—

(*a*) minors;

(*b*) females declared by the District Court, on the application of the Collector and after such judicial inquiry as it thinks necessary, to be unfitted to manage their own property;

(*c*) persons declared by the District Court, on the like application and after the like inquiry, to be incapable of managing, or unfitted to manage, their own property owing to

(i) any physical or mental defect or infirmity, or

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1 General Acts. Vol. II.

2 For notification appointing the Táluqdárí Settlement officer to be a Court of Wards for the whole of the area to which the Gujarát Táluqdárs' Act, 1888 (Bom. Act 6 of 1888), extends, and directing that that area shall be excluded from the jurisdiction of the Commissioner, Northern Division, as Court of Wards of that Division, *see* Bombay Government Gazette, 1908, Pt. I, p. 1474.

(ii) such habits as cause, or are likely to cause, injury to their property or to the well-being of their inferior holders ; and

(*d*) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs.

(*2*) No appeal shall lie from any declaration under clause (*b*) or (*c*) of sub-section (*1*).

Assumption of superintendence where Government officer appointed guardian.

6. Where any officer of Government is appointed or declared to be guardian of the property, or of the person and property, of a minor under section 7, sub-section (*1*), of the [1] Guardians and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, with the previous sanction of the Governor in Council, assume the superintendence of the property, or of the person and property, of such minor.

VIII of 1890.

Superintendence not to be assumed where guardian appointed except with consent of District Court.

7. The Court of Wards shall not assume the superintendence of the property, or of the person and property, of any minor of whose property, or of whose person and property,

(*a*) a guardian has been appointed by will or other instrument, or

(*b*) a guardian other than an officer of Government has been appointed or declared under section 7, sub-section (*1*), of the [1] Guardians and Wards Act, 1890,

except with the previous consent of the District Court.

VIII of 1890.

Superintendence not to be assumed under section 4 in case of undivided Hindu family unless all co-sharers disqualified ;

8. (*1*) The Court of Wards shall not assume under section 4, sub-section (*1*), the superintendence of the property of any family which is undivided according to Hindu law, except where all the co-sharers are disqualified under sub-section (*1*) of section 5.

but may be assumed in other case.

(*2*) Where two or more land-holders are co-sharers otherwise than as co-sharers in a family which is undivided according to Hindu law and one of such co-sharers is disqualified under sub-section (*1*) of section 5, the Court of Wards may obtain partition on behalf of the disqualified land-holder, by suit or otherwise, and assume the superintendence of the property allotted to such land-holder in the partition.

Assumption of superintendence by Court of Wards on application of land-holder.

9. (*1*) Any land-holder may apply in writing to the Governor in Council to have his property placed under the superintendence of the Court of Wards, and the Governor in Council may on such application, where he is of opinion that it is expedient in the public interests to preserve the property of such land-holder for the benefit of his family and that the said property

[1] General Acts, Vol. V.

is of such value that economical management by the Court of Wards is practicable, order the Court of Wards to assume the superintendence of the property.

(*2*) Where property is held by co-sharers in undivided shares, an application signed by co-sharers holding an aggregate interest of not less than three-fourths of the whole property shall, for the purposes of sub-section (*1*), be deemed to be an application by a land-holder in respect of such property:

provided, *firstly*, that no order shall be made under sub-section (*1*) where it appears to the Governor in Council doubtful whether the aggregate interest of the co-sharers signing any such application amounts to not less than three-fourths of the whole property; and

provided, *secondly*, that nothing in this Act shall be deemed to prevent any co-sharer other than those signing any such application from obtaining partition of his share, whether by suit or otherwise.

(*3*) An order made under sub-section (*1*) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no such order shall be called in question in any Court.

Provisions for temporary custody of heirs and protection of property in certain cases.

10. (*1*) Whenever the Collector receives information that any land-holder is, or should be, disqualified under sub-section (*1*) of section 5, or that any land-holder has died and that his heir is, or should be, so disqualified, he may apply to the District Court, and the District Court may authorize the Court of Wards to

(*a*) take such steps and make such order for the temporary custody and protection of the property as the Court of Wards thinks fit; and

(*b*) where the land-holder or heir is a minor, direct that the person (if any) having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as the Court of Wards may appoint, and make such order for the temporary custody and protection of the minor as the Court of Wards thinks fit:

provided that, where the minor is a female and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(*2*) Whenever the Court of Wards is authorized to proceed under sub-section (*1*) it shall forthwith report its action for the information of the Governor in Council.

(*3*) No appeal shall lie from any order of authorization under sub-section (*1*), except in the case of a land-holder disqualified under section 5, sub-section (*1*), clause (*a*).

Assumption of superintendence

11. Where the Court of Wards assumes the superintendence of the property of any land-holder disqualified under clause (*a*) or (*d*) of section 5, sub-section

(*1*), it may, with the previous sanction of the Governor in Council, assume the superintendence of his person also :

provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married and is in the custody of her husband.

by Court of Wards of person of disqualified land-holder in certain cases.

12. Where a disqualified land-holder or a land-holder who has been made a Government ward in pursuance of an order under section 9, sub-section (*1*), holds land within the territorial jurisdiction of two or more Courts of Wards, such one only of the Courts of Wards as the Governor in Council may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the land-holder.

Assumption of superintendence by Court of Wards where land-holder holds land in more than one jurisdiction.

13. (*1*) Whenever the Court of Wards assumes the superintendence of the property of any land-holder under this Act, the fact of such assumption, and the date on which it was sanctioned by the Governor in Council, shall be notified in the *Bombay Government Gazette* and in such other manner as the Governor in Council may, by general or special order, direct.

Assumption of superintendence to be notified and to extend to whole of Government ward's property.

(*2*) On and with effect from the date of such sanction, the whole of the property, moveable and immoveable, of such land-holder, whether the existence of any such property is known to the Court of Wards or not, shall be deemed to be under the superintendence of the Court of Wards.

(*3*) Any property which the Government Ward may inherit or acquire by succession subsequently to the date of such sanction shall also be deemed to be under the superintendence of the Court of Wards.

(*4*) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the Government ward may acquire otherwise than by inheritance or succession subsequently to the date of such notification.

Publication of notice to claimants against Government ward.

14. (*1*) On the issue of a notification under section 13, sub-section (*1*), the Court of Wards shall publish in the *Bombay Government Gazette*, and in such other manner as the Governor in Council may, by general or special order, direct, a notice, in English and also in the vernacular, calling upon all persons having claims against the Government ward or his property to submit the same in writing to it within six months from the date of the publication of the notice.

(*2*) Where the Court of Wards is satisfied that any claimant was unable to comply with the notice published under sub-section (*1*), it may allow his claim to be submitted at any time after the date of the expiry of the period fixed therein ; but any such claim shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of such period until submission.

(*3*) Every claim against the Government ward or his property (other than a claim on the part of Government) not submitted to the Court of Wards in

compliance with the notice published under sub-section (*1*), or allowed to be submitted under sub-section (*2*), shall, save in the cases provided for by section 18, sub-section (*2*), clause (*c*), and by sections 7 and 13 of the [1] Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence or afterwards, to have been duly discharged, unless, in any suit or proceeding instituted by the claimant, or by any person claiming under him, in respect of any such claim, it is proved to the satisfaction of the Court that he was unable to comply with the notice published under sub-section (*1*). XV of 1877.

Power to require claimants to furnish full particulars and documents.

15. (*1*) The Court of Wards may by written order require that any claimant submitting his claim shall, within such reasonable time as it may prescribe in such order, furnish full particulars thereof, and produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document:

provided that, where the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Court of Wards a certified copy of the decree and a certificate from the Court which passed or is executing the same declaring the amount recoverable thereunder, or a true copy of the award and a statement of the sum recoverable thereunder, as the case may be; and, where the claim is pending adjudication in any Court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint, or a true copy of the reference to arbitration, as the case may be.

(*2*) The Court of Wards shall, after marking, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

(*3*) Where any document, which is in the possession or under the control of a claimant, is not produced by him in accordance with an order under sub-section (*1*), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the superintendence or afterwards, in any suit brought by such claimant, or by any person claiming under him, in respect of any claim to which such document relates, unless it is proved to the satisfaction of the Court that he was unable to produce such document as required by such order.

Investigation and decision of claims.

16. (*1*) On receipt of all claims submitted in compliance with the provisions of sections 14 and 15, the Court of Wards shall proceed to investigate such claims and shall decide, subject to the provisions of sub-section (*3*), which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(*2*) Where the Court of Wards has admitted any claim under sub-section (*1*), it may make to the claimant a proposal in writing for the reduction of the claim,

[1] *See* Act 15 of 1877 as modified up to 31st December, 1900.

or of the rate of interest to be paid in future, or of both; and if such proposal, or any modification of it, is accepted by the claimant, and his acceptance is finally recorded and attested by the Court of Wards or by any Revenue-officer not below the rank of an Assistant or Deputy Collector whom the Governor in Council may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant:

provided that if, when the superintendence of the property by the Court of Wards is withdrawn, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (*1*) as the unsatisfied portion bears to the reduced claim.

(*3*) Subject to the provisions of sub-section (*2*), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been duly submitted to the Court of Wards:

provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

Execution of decrees to be stayed till certificate filed.

17. (*1*) On the publication of a notice under section 14, sub-section (*1*), no proceeding in execution of any decree against the Government ward or his property shall be instituted or continued until the decree-holder files a certificate from the Court of Wards that the decree-claim has been duly submitted, or until the expiration of one month from the date of receipt by the Court of Wards of a written application for such certificate, accompanied by a certified copy of the decree.

(*2*) Any person holding a decree against the Government ward or his property shall be entitled to receive from the Court of Wards, free of cost, the certificate required by sub-section (*1*).

XV of 1877. XIV of 1882.

(*3*) In computing the period of limitation prescribed by the[1] Indian Limitation Act, 1877, or by section 230 of the[2] Code of Civil Procedure, for any application for the execution of a decree, proceedings in which have been stayed or temporarily barred by reason of the claim not having been duly submitted, the time from the date of the notice published under section 14, sub-section (*1*), or of the decree if it was passed subsequently to the publication of the notice, to the date of due submission shall be excluded.

Report to Government.

18. (*1*) When all claims have been investigated under section 16, the Court of Wards shall submit to the Governor in Council a schedule of the debts and liabilities of the Government ward, and the Governor in Council may, where the property appears to be involved beyond all hope of extrication, or for any other sufficient reason, by order published in the *Bombay Government Gazette*, direct that, on a date to be fixed by the order, the superintendence of the

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[1] *See* Act 15 of 1877 as modified up to 31st December, 1900.
[2] *See* Act 14 of 1882 as modified up to 1st December, 1899.

property, or of the person and property, of the Government ward by the Court of Wards shall be withdrawn.

(*2*) On the date so fixed

(*a*) the superintendence shall terminate;

(*b*) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property; and

(*c*) the claims referred to in section 14, sub-section (*3*), shall revive.

(*3*) In calculating the periods of limitation applicable to suits to recover and enforce claims revived under sub-section (*2*), clause (*c*), the time during which such superintendence has continued shall be excluded.

Delegation of powers by Court of Wards.

19. (*1*) With the general or special sanction of the Governor in Council, the Court of Wards may, from time to time, delegate all or any of its powers to the Collector of any district in which any part of the property of a Government ward is situated, or to any other officer not below the rank of an Assistant or Deputy Collector whom it may appoint in this behalf, and may, at any time, with the like sanction, revoke such delegation.

(*2*) Subject to any general or special orders of the Governor in Council, the Court of Wards may exercise all or any of the powers conferred on it by this Act through the Collector of any district in which any part of the property of a Government ward is situated, or through any other officer not below the rank of an Assistant or Deputy Collector whom it may appoint in this behalf; and, subject to the like orders, any such Collector or Assistant or Deputy Collector may exercise all or any of the powers delegated to him under this Act through any Revenue-officer subordinate to him not below the rank of a Mahálkari.

Appointment of manager by Court of Wards.

20. The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

Liabilities, etc., of managers appointed by Court of Wards.

21. (*1*) Every manager appointed by the Court of Wards shall

(*a*) give such security, with such sureties (if any), as the Court of Wards thinks fit for the due discharge of the trusts of his office, and for the due account of all property and moneys which come into his control or possession by reason of his office;

(b) be entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties; and

(c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence; and every such loss shall be recoverable from him and from his sureties (if any) as an arrear of land-revenue.

(*2*) Every manager or other servant of the Court of Wards shall be deemed to be a "public servant" within the meaning of Chapter IX of the [1] Indian Penal Code; and in the definition of "legal remuneration" contained in section 161 of the said Code, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards. XLV of 1860. Managers and other servants to be deemed public servants.

22. (*1*) The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence. Power of Court of Wards to appoint guardians of certain Government wards.

(*2*) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the [2] Guardians and Wards Act, 1890. VIII of 1890.

23. Subject to the provisions of this Act and of any rules thereunder, the Court of Wards General powers of Court of Wards.

(*a*) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property of which it assumes the superintendence under this Act, as the owner of the property, if it was not under the superintendence of the Court of Wards, might do for its proper care and management; and

(*b*) may, of itself or through the guardian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

24. The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, where he is a minor, in respect of his education. Custody, residence and education of certain Government wards.

25. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents. Allowance for Government ward, his family and dependents.

26. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own. Duties of Court of Wards or manager.

27. The Court of Wards may, with the previous sanction of the Governor in Council, mortgage or let the whole or any part of the property of any Powers of Court of Wards as

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[1] *See* Act 45 of 1860 as modified up to 1st April, 1903.
[2] General Acts, Vol. V.

to property of Government wards.

Government ward and may, with the like sanction, sell or exchange any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward:

provided that

(*a*) no sanction shall be necessary in the case of any lease from year to year or for a term not exceeding ten years; and

(*b*) where one-fourth of such property has been sold or exchanged, no further sale or exchange shall be made.

Power of Court of Wards to evict.

28. The Court of Wards may summarily evict in the manner specified in section 202 of the [1]Bombay Land-Revenue Code, 1879, any person occupying, or in possession of, any immoveable property under its superintendence, to the use and occupation of which he has ceased to be entitled under any of the provisions of that Code, or which he uses or occupies in contravention of any of the provisions of this Act. Bom. V of 1879.

Recovery of arrears of rent as arrears of land-revenue.

29. Arrears of rent due by tenants in respect of property under the superintendence of the Court of Wards (whether such arrears became due before or after the assumption of such superintendence) may, under the orders of the Collector, be recovered as arrears of land-revenue.

Property under superintendence not liable to sale for arrears.

30. No immoveable property under the superintendence of the Court of Wards shall be liable to sale on account of arrears of land-revenue:

provided that all such arrears of land-revenue shall be the first charge upon the sale-proceeds of any such property which may be sold for any other cause than for arrears of land-revenue.

Notice of suit.

31. No suit relating to the person or property of any Government ward shall be brought in any Civil Court until the expiration of two months after notice in writing, stating the name and place of abode of the intending plaintiff, the cause of action and the relief claimed, has been delivered to, or left at the office of, the Court of Wards; and the plaint shall contain a statement that such notice has been so delivered or left:

provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of a notification issued under section 13, sub-section (*1*).

Manager of Court of Wards to be next friend or guardian in suit by or against Government wards.

32. Subject to the provisions of the second paragraph of section 440 of the [2]Code of Civil Procedure, in every suit brought by or against a Government ward, the manager of the Government ward's property, or, where there is no manager, the Court of Wards having the superintendence of the Government ward's property, shall be named as the next friend or guardian for the suit, as the case may be. XIV of 1882.

Payment of costs.

33. Where, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the Government ward's next friend or

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1 Vol. II of this Code, p. 631.

2 *See* Act 14 of 1882 as modified up to 1st December, 1899.

guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

34. Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

35. No suit shall be brought, and no appeal in any suit shall be preferred, by any guardian or manager appointed by the Court of Wards on behalf of any Government ward unless it is authorized by an order in writing of the Court of Wards :

provided that a manager may authorize a plaint or a memorandum of appeal to be filed in order to prevent a suit or appeal from being barred by the law of limitation, but the suit or appeal shall not afterwards be proceeded with except with the sanction of the Court of Wards.

Adjudication of civil disputes between two or more Government wards.

36. (*1*) Where any question arises as between two or more Government wards of such a nature that an adjudication upon it by a Civil Court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the Civil Court with regard to such matter under section 527 of the [1]Code of Civil Procedure, to file in the Civil Court having jurisdiction a statement containing the point or points for determination.

XIV of 1882.

(*2*) When such statement has been filed, the Court shall appoint a guardian for the suit for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(*3*) The Court may, if it thinks fit, amend the case so stated and shall then proceed to hear and dispose of the case in the manner provided in Chapter XXXVIII of the [1]Code of Civil Procedure for the hearing and disposal of cases stated for opinion under that Chapter.

XIV of 1882.

Disabilities of a Government ward.

37. (*1*) Except with the approval of the Court of Wards, a Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof (except such interest as may be created by a will made in accordance with section 38), or to enter into any contract which may involve him in pecuniary liability ; and no suit shall be brought in any Civil Court whereby to charge any person upon any promise made after he has ceased to be a Government ward to pay any debt contracted during the period when he was a Government ward, or upon any ratification made after he has ceased to be a Government ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

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[1] *See* Act 14 of 1882 as modified up to 1st December, 1899.

(*2*) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

provided that a Government ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of Government necessary to wills made by Government wards.

38. No will made by a Government ward shall be valid without the consent of the Governor in Council obtained, either previously or subsequently to the making of the will, on application made to him through the Court of Wards:

provided that consent shall not be withheld unless it appears to the Governor in Council that the will is contrary to the personal or special law applicable to the ward, or that it is likely to cause considerable pecuniary embarrassment to the property, or to lower considerably the influence or respectability of the family in public estimation.

Procedure when succession to Government ward's property is disputed.

39. Where, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may, with the sanction of the Governor in Council, either retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of interpleader against all the claimants.

Withdrawal of superintendence of Court of Wards.

40. Where superintendence has been assumed in pursuance of an order under section 9, sub-section (*1*) the Court of Wards shall withdraw such superintendence as soon as, in the opinion of the Governor in Council, the property is free from embarrassment.

(*2*) The Court of Wards may, with the sanction of the Governor in Council, at any time withdraw its superintendence from the person or property, or both, of a Government ward and shall withdraw its superintendence as soon as, in the opinion of the District Court, certified to the Court of Wards,

(*a*) in the case of a person disqualified under clause (*a*) of sub-section (*1*) of section 5, he attains or has attained his majority;

(*b*) in the case of a female disqualified under clause (*b*) of the same sub-section, she is fit to manage her own property;

(*c*) in the case of a person disqualified under clause (*c*) of the same sub-section, he is fit to manage his own property;

(*d*) in the case of a person disqualified under clause (*d*) of the same sub-section, he ceases to be of unsound mind and incapable of managing his affairs; and

(*e*) where it was assumed under section 4, sub-section (*1*), in the case of a family which was undivided according to Hindu law, any co-sharer ceases to be disqualified under sub-section (*1*) of section 5:

provided, *firstly*, that

(i) where a Government ward dies or ceases to be disqualified and his property is still encumbered with debts and liabilities, the Court of

Wards may, with the sanction of the Governor in Council, retain the said property under its superintendence until such debts and liabilities have been discharged ; and

(ii) in the case of land-holders referred to in section 8, sub-section (*2*), where one or more of the proprietors of a property remain disqualified although another or others have ceased to be disqualified, the Court of Wards may, with the sanction of the Governor in Council, retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified the surplus income accruing from his share of the estate ;

provided, *secondly*, that, where the Court of Wards withdraws its superintendence, such withdrawal shall not affect any contract entered into by the Court of Wards in the lawful exercise of its powers ; and

provided, *thirdly*, that

(*a*) no person who has once been declared disqualified under clause (*b*) or (*c*) of sub-section (*1*) of section 5, and

(*b*) except in the case of any co-sharer other than those signing an application described in section 9, sub-section (*2*), no land-holder who has been made a Government ward in pursuance of an order under section 9, sub-section (*1*),

shall be competent, on the withdrawal of such superintendence, to transfer or create any charge on or interest in his property or any part thereof for a period beyond the term of his natural life, except with the previous sanction of the Collector.

(*3*) No appeal shall lie from any opinion certified under sub-section (*2*).

Appointment of guardian in certain cases.

41. (*1*) Where, in exercise of the power conferred by section 40, the Court of Wards decides to withdraw its superintendence from the person or property, or both, of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such withdrawal.

(*2*) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the [1]Guardians and Wards Act, 1890 ; and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act.

VIII of 1890

Withdrawal to be notified in Gazette.

42. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the *Bombay Government Gazette* and in such other manner as the Governor in Council may, by general or special order, direct.

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[1] General Acts, Vol. V.

Appeals.

43. (*1*) An appeal shall lie from every order, other than an order of the District Court, passed under this Act, whether original or on appeal,

(*a*) where the order is that of a Commissioner, or of any special or other officer appointed, or Board constituted, under the proviso to section 3, to the Governor in Council;

(*b*) where the order is that of a Collector, to the Commissioner, or where any such officer or Board has jurisdiction, to such officer or Board; and

(*c*) in all other cases, to the Collector.

(*2*) The provisions of sections 205 to 210, both inclusive, of the [1]Bombay Land-Revenue Code, 1879, shall apply to all such appeals. Bom. V of 1879.

Control of Governor in Council.

44. All orders or proceedings under this Act, other than orders or proceedings of the District Court, shall be subject to the supervision and control of the Governor in Council; and the Governor in Council may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Bar of suits.

45. No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act, or against the Court of Wards or any public servant or person duly appointed or authorized under this Act in respect of anything in [2]good faith done or purporting to be done under the provisions thereof or the rules made thereunder:

provided, *firstly*, that any person evicted under section 28 may sue for restitution; and

provided, *secondly*, that any tenant from whom an arrear of rent has been recovered under section 29 may sue for recovery of the amount, or any part thereof, so recovered.

Power of Governor in Council to make rules.

46. (*1*) The Governor in Council may, by notification published in the *Bombay Government Gazette*, make [3] rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may

(*a*) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;

(*b*) regulate the form, conditions and amount of security, and the number of sureties (if any), to be given by managers;

(*c*) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Governor in Council;

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1 Vol. II of this Code, p. 631.

2 As to definition of "good faith," *see* Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), *infra*, p. 1708.

3 For rules, *see* Bombay Government Gazette, 1908, Pt. I, p. 1474.

(*d*) prescribe the accounts and other returns, and the form and other particulars thereof, which shall be rendered to the Court of Wards and by the Court of Wards to the Governor in Council;

(*e*) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(*f*) regulate the procedure in inquiries by, and in appeals from orders of, the Court of Wards;

(*g*) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned;

(*h*) prescribe the mode in which any expenses incurred by the Court of Wards or the Collector under any power conferred by this Act may be recovered; and

(*i*) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

BOMBAY ACT No. II OF 1905.[1]

[28*th June*, 1905.]

An Act further to amend the [2] Gujarát Táluqdárs' Act, 1888.

Bom. VI of 1888.

WHEREAS it is expedient further to amend the [2] Gujarát Táluqdárs' Act, 1888, in manner hereinafter appearing;

55 and 56 Vict., c. 14.

And whereas the previous sanction of the Governor General required by section 5 of the [3] Indian Councils Act, 1892, has been obtained for the passing of this Act;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Gujarát Táluqdárs' (Amendment) Act, 1905.

Addition of words to section 2, sub-section (*1*), clause (*a*).

Bom. VI of 1888.

2. (*1*) To section 2, sub-section (*1*), clause (*a*), of the Gujarát Táluqdárs' Act, 1888, hereinafter called "the said Act", the following words shall be added, namely:—"and a mulgameti who holds land directly from Government".

(*2*) Sub-section (*1*) shall be deemed to have come into force on the 25th day of March, 1889:

provided that nothing in section 31 of the said Act shall be deemed to apply to any incumbrance or alienation made by such a mulgameti before the passing of this Act, except where his estate has been taken under management by a Government officer under the said Act.

Amendments of section 28.

3. (*1*) Section 28 of the said Act shall be renumbered section 28, sub-section (*1*).

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1904, Pt. VII, p. 196; for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 8, and for Proceedings in Council, *see ibid*, 1904, Pt. VII, p. 206; *ibid*, 1905, Pt. VII, p. 78 h.

[2] Vol. III of this Code, p. 1268.

[3] Collection of Statutes relating to India, Vol. II, p. 734.

(2) For the words "between the táluqdár and the Táluqdárí Settlement-officer or other officer aforesaid", and the proviso in the said sub-section, the following sub-section shall be substituted, namely :—

[*Vol. III of this Code, p. 1277.*]

Insertion of sections after section 29.

4. After section 29 of the said Act the following sections shall be inserted, namely :—

[*Vol. III of this Code, p. 1278.*]

Addition of words to section 31, sub-section (*1*).

5. To section 31, sub-section (*1*), of the said Act the following words shall be added, namely :—

[*Vol. III of this Code, p. 1284.*]

Insertion of new clause in section 33, sub-section (*2*).

6. In section 33, sub-section (*2*), of the said Act, after clause (*c*) the following clause shall be inserted, namely :—

"(*cc*) to section 79A, clause (*a*), the following words shall be added, namely : 'which he uses or occupies in contravention of any of the provisions of the Gujarát Táluqdárs' Act, 1888, or'." Bom. VI of 1888.

BOMBAY ACT No. III OF 1905.[1]

[*27th September, 1905.*]

An Act further to amend the [2]Bombay Ábkárí Act, 1878.

WHEREAS it is expedient further to amend the [2] Bombay Ábkárí Act, 1878, as amended by the Bombay Ábkárí Act Amendment Act, 1892, in manner hereinafter appearing; It is hereby enacted as follows :— Bom. V of 1878. Bom. III of 1892.

Insertions in section 18 A, sub-section (*2*).

1. In sub-section (*2*) of section 18A of the Bombay Ábkárí' Act, 1878, as amended by the Bombay Ábkárí' Act Amendment Act, 1892, Bom. V of 1878. Bom. III of 1892.

(*a*) before the word "Thána" the words "Broach, Násik (except the táluká of Peint)", and

(*b*) after the word "Kolába" the words "and of the tálukás of Párdi, Bulsár and Chikhli of the district of Surat"

shall be inserted.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1905, Pt. VII, p. 7, and for Proceedings in Council, *see ibid*, 1905, Pt. VII, pp. 781 and 395.

[2] Vol. II of this Code, p. 583.

BOMBAY ACT No. IV OF 1905.[1]

[*6th October, 1905.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient to amend the enactments specified in the first schedule to this Act, and to repeal the enactments specified in the second schedule to this Act; It is hereby enacted as follows:—

1. This Act may be called the Bombay Repealing and Amending Act, 1905. Short title.

2. (*1*) The enactments specified in the first schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.

Bom. I of 1904.

(*2*) The amendment of the Bombay General Clauses Act, 1904, shall be deemed to have come into force on the 30th May 1904.

3. The enactments specified in the second schedule are hereby repealed to the extent mentioned in the fourth column thereof. Repeal of certain enactments

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1905, Pt. VII, p. 5; for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 29, and for Proceedings in Council, *see ibid*, 1905, Pt. VII, pp. 78*k* and 395.

THE FIRST SCHEDULE.

1	2	3	4
Year.	No.	Short title.	Amendments.
1867	VIII	The [1]Bombay Village Police Act, 1867.	To the proviso to the second paragraph of section 9 *add the words* or, if he is an officiator under the provisions of the Bombay Hereditary Offices Act, of Government.
1878	V	The [1]Bombay Ábkárí Act, 1878	In section 45, clauses (*c*) and (*e*), *for the words* commits any act *the words* wilfully does or omits to do any thing *shall be substituted.*
1879	V	The [1]Bombay Land-Revenue Code, 1879.	To section 3, clause (1), *add the words* and for the purposes of sections 25 and 26 includes a village officer appointed or officiating under any of the provisions of the Bombay Hereditary Offices Act or the Mátádars Act, 1887. In section 38, *for the word* Commissioner *wherever it occurs, substitute the word* Collector. To the heading above section 40, *add the symbol* " &c." In section 43, (*a*) *after the word* remove, *insert the words* from his holding, (*b*) *after the words* natural product, *where they first occur, insert the words* whether of the like description or not. In section 52, as amended by section 4 of the Bombay Land-Revenue Code Amendment Act, 1901, *for the word* or, *where it first occurs, substitute the word* and. In section 80, *for the words* for the Collector to *substitute the words* the Collector shall on due tender thereof. In section 187, *after the words* in force, *in the second place where they occur, insert the words* or by any contract with the Secretary of State for India in Council. In section 214, clause (*c*), *after the word* may *insert the words* or may not. In section 214, clause (*i*), *after the word* generally *insert the words* for carrying out the purposes and objects of this Act, and.

[1] Vol. II of this Code, pp. 478, 583 and 631, respectively.

(*The First and Second Schedules.*)

THE FIRST SCHEDULE—*continued.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1879	V	The [1]Bombay Land-Revenue Code, 1879—*continued.*	In Schedule B (*a*) *to the Form of Bond to be required under section* 23, *add the following proviso, namely :—* [Vide *supra*, p. 700.] *and* (*b*) *in the Form of Security to be subjoined to the Bond of the Principal for the word* such *substitute the words* the sum of rupees, in which the abovesaid has bound himself, or such smaller.
1902	IV	The [2]City of Bombay Police Act, 1902.	In section 44, *for the word* persons *substitute the word* person.
1903	IV	The [2]Bombay Land Record-of-rights Act, 1903.	In section 8, *after the words* furnish the information *insert the words* or produce the documents.
1904	I	The [2]Bombay General Clauses Act, 1904.	In the schedule, *after the words* the whole, *where they first occur, the words* except so much of Schedule B as relates to unrepealed enactments *shall be inserted.*

THE SECOND SCHEDULE.

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1879	V	The [1]Bombay Land-Revenue Code, 1879.	In section 144, *the words* subject to the orders of the Commissioner.
1890	II	The [3]Bombay Salt Act, 1890.	In section 58, *the figure* (1).
1899	III	The [4]Government Occupants (Sind) Act, 1899.	In section 6, *the figure* (1).

[1] Vol II of this Code, p. 631.
[2] *Supra* pp. 1653, 1698 and 1707, respectively.
[3] Vol. III of this Code, p. 1308.
[4] *Supra*, p. 1507.

BOMBAY ACT No. V OF 1905.[1]

[*12th December, 1905.*]

An Act further to amend the [2] City of Bombay Municipal Act, 1881.

WHEREAS it is expedient further to amend the [2] City of Bombay Municipal Act, 1888, in manner hereinafter appearing ; It is hereby enacted as follows :— Bom. III of 1888.

Short title.

1. This Act may be called the City of Bombay Municipal (Amendment) Act, 1905.

Substitution of a clause for section 3, clause (*u*).

2. For clause (*u*) of section 3 of the City of Bombay Municipal Act, 1888, hereinafter called " the said Act," the following clause shall be substituted, namely :— Bom. III of 1888.

[*Vol. III of this Code, p. 978.*]

Addition of a proviso to clause (*j*) of sub-section (*2*) of section 26.

3. To clause (*j*) of sub-section (*2*) of section 26 of the said Act the following proviso shall be added, namely :—

[*Vol. III of this Code, p. 989.*]

Amendments in section 28.

4. (*1*) For clause (*c*) of section 28 of the said Act, the following clause shall be substituted, namely :—

[*Vol. III of this Code, p. 990.*]

(*2*) In clause (*m*) of the said section, for the words " to any such challenge to appear, within three days after the poll, before the Commissioner " the following words shall be substituted, namely :—

[*Vol. III of this Code, p. 992.*]

(*3*) In clause (*p*) of the said section

(*a*) for the words " the Commissioner shall " the following words shall be substituted, namely :—

" The Commissioner shall, as soon as may be, declare the results of the poll, specifying the total number of valid votes given for each candidate. He shall also " ; and

(*b*) for the words " and cause lists to be prepared of the valid votes given for each candidate " the following words shall be substituted, namely :—

[*Vol. III of this Code, p. 992.*]

Amendments in section 33

5. (*1*) In sub-section (*1*) of section 33 of the said Act,

(*a*) for the word " eight " the word " fifteen " shall be substituted ; and

(*b*) after the word " Court " the following words shall be added, namely :—

[*Vol. III of this Code, p. 995.*]

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1905, Pt. VII, p. 529 ; for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 523, and for Proceedings in Council, *see ibid*, 1905, Pt. VII, pp. 408 and 563.

2 Vol. III of this Code, p. 975.

(2) In sub-section (2) of the said section, after the words "he shall confirm the declared result of the election" the following words shall be substituted for the remainder of the sub-section, namely :—

[*Vol. III of this Code, p. 996.*]

Substitution of a sub-section for section 68, sub-section (2).

6. For section 68, sub-section (2), of the said Act the following sub-section shall be substituted, namely :—

[*Vol. III of this Code, p. 1015.*]

Insertion of words in section 77, sub-section (2), clause (*d*).

7. To clause (*d*) of sub-section (2) of section 77 of the said Act the following words shall be added, namely :—"and, after approved service of not less than seven years to a sum not exceeding rupees twelve hundred."

Insertion of words in section 118, clause (*c*).

8. In clause (*c*) of section 118 of the said Act,

(*a*) after the words "salaries," the words "joining-time allowances" shall be inserted, and

(*b*) after the word "Act" the words "and of any officer whose services may, at the request of the corporation, be placed by Government at their disposal" shall be added.

Addition of a sub-section to section 120.

9. To section 120 of the said Act the following sub-section shall be added, namely :—

[*Vol. III of this Code, p. 1040.*]

Insertion of words in section 220.

10. In section 220 of the said Act, before the word "belonging" the words "vesting in or" shall be inserted.

Insertion of a section after section 220.

11. After section 220 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1071.*]

Amendments in section 221.

12. (*1*) Section 221 of the said Act shall be re-numbered section 221, sub-section (*1*);

(2) After the said sub-section, the following sub-section shall be inserted, namely :—

[*Vol. III of this Code, p. 1072.*]

Repeal of section 226.

13. Section 226 of the said Act is hereby repealed.

Insertion of words in sections 228, 229, 230, 233 and 236.

14. (*1*) In sections 228, 229, 230, sub-section (*1*), 233, sub-section (*1*), and 236 of the said Act, after the words "municipal drain" the words "or other place legally set apart for the discharge of drainage" and

in section 239 of the said Act, after the words "municipal drains" the words "or other places legally set apart for the discharge of drainage"

shall be inserted,

(2) In section 233, sub-section (2), of the said Act, after the words "municipal drain" the words "or other place aforesaid" shall be inserted.

Substitution of words in section 228.

15. In section 228 of the said Act, for the words "the communications between drains not belonging to the corporation and municipal drains" the words "connections with municipal drains or other places aforesaid" shall be substituted.

Substitution of words in section 230, sub-section (*4*).

16. In section 230, sub-section (*4*), of the said Act, for the words "by whom or in whose behalf" the words "for the benefit of which" shall be substituted.

Amendments of section 231.

17. In section 231 of the said Act,

(*a*) in clause (*a*), after the word "level" the words "and according to such alignment" shall be inserted ; and

(*b*) the following proviso shall be added, namely :—

[Vide *Vol. III of this Code, p. 1076.*]

Amendments of section 232.

18. In section 232 of the said Act,

(*a*) in sub-section (*1*), for the words "to make a drain emptying into a covered cesspool" the following words shall be substituted, namely :—

[*Vol. III of this Code, p. 1077.*]

(*b*) for sub-section (*2*) the following sub-section shall be substituted, namely :—

[*Vol. III of this Code, p. 1077.*]

Insertion of a section after section 232.

19. After section 232 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1077.*]

Amendments of section 233, sub-section (*1*).

20. In sub-section (*1*) of section 233 of the said Act,

(*a*) after the word "city" the words "or of the part of the city in which such drain is situated" shall be inserted, and

(*b*) for clause (*b*) the following clause shall be substituted, namely :—

[*Vol. III of this Code, p. 1078.*]

Insertion of a section after section 233.

21. After section 233 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1079.*]

Substitution of words in section 234, sub-section (*2*).

22. In sub-section (*2*) of section 234 of the said Act, for the words "such building" the words "the premises in which such building is situated" shall be substituted.

Amendments of section 238, sub-section (*1*).

23. In sub-section (*1*) of section 238 of the said Act

(*a*) for the words "On receipt of any such application" the words

[Vide *Vol. III of this Code, p. 1080.*]

shall be substituted, and

(*b*) for the words

(*i*) "applicant," in the first place where it occurs, the words "said owner or occupier," and, in the second place where it occurs, the words "said premises", and

(*ii*) "drain to which his application refers" the words "communicating drain" shall be substituted.

Substitution of a section for section 241.

24. For section 241 of the said Act the following section shall be substituted, namely :—

[*Vol. III of this Code, p. 1082.*]

Substitution of words in section 242.

25. In section 242 of the said Act, for the words "whether for the use of the owner or occupier of the said premises or not" the words "otherwise than for the sole use and benefit of the said premises" shall be substituted.

Amendments in section 244.

26. In section 244 of the said Act,

(*a*) to sub-section (*1*) the following words shall be added, namely :—

[*Vol. III of this Code, p. 1082.*]

(*b*) in clause (*a*) of sub-section (*2*), for the words "ten" and "twenty" the words "fifteen" and "forty" shall respectively be substituted ; and

(*c*) the following sub-section shall be added, namely :—

[*Vol. III of this Code, p. 1083.*].

Addition of words to section 246, sub-section (*1*), clause (*c*).

27. To section 246, sub-section (*1*), clause (*c*), of the said Act, the words "within or without the city" shall be added.

Substitution of sections for sections 247 and 248.

28. For sections 247 and 248 of the said Act, the following sections shall be substituted, namely :—

[*Vol. III of this Code, p. 1084.*]

Insertion of a section after section 249.

29. After section 249 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1086.*]

Insertion of a section after section 251.

30. After section 251 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1088.*]

Insertion of a section after section 251A.

31. After section 251A of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1088.*]

Insertion of words in sections 253

32. (*1*) In section 253 of the said Act, after the word "urinals" the words "and bathing and washing places" shall be inserted.

and 256 to 258.

(*2*) In sections 255, 256 and 258, of the said Act, after the word "urinal," wherever it occurs, the words "or bathing or washing place" shall be inserted.

Substitution of a new section for section 257.

33. For section 257 of the said Act the following section shall be substituted, namely :—

[*Vol. III of this Code, p. 1089.*]

Insertion of a section after section 257.

34. After section 257 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1090.*]

Repeal of section 259, sub-section (*2*).

35. Sub-section (*2*) of section 259 of the said Act is hereby repealed.

Insertion of a section after section 259.

36. After section 259 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1092.*]

Substitution of words in section 260.

37. In section 260 of the said Act, for the words "section 230, 231, 238, 256 or 257" the words "this chapter" shall be substituted.

Substitution of sections for sections 272 and 273.

38. For sections 272 and 273 of the said Act the following sections shall be substituted, namely :—

[*Vol. III of this Code, p. 1097.*]

Insertion of words in section 281.

39. In section 281, before the word "cesspool", where it occurs for the second time, insert the words "privy, water-closet or ".

Substitution of words in section 287, sub-section (*2*).

40. In section 287, sub-section (*2*), of the said Act,

(*a*) for the words "the Commissioner shall not" the words "no person shall," and

(*b*) for the words "any person," where they first occur, the word "he" shall be substituted.

Insertion of a section after section 287.

41. After section 287 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1103.*]

Substitution of a section for section 297.

42. For section 297 of the said Act the following section shall be substituted, namely :—

[*Vol. III of this Code, p. 1105.*]

Amendment of sections 302, 303 and 304.

43. (*1*) In section 302 of the said Act, after the word "street", in the first place in which it occurs, the following words shall be inserted, namely :—

"whether it is intended to allow the public a right of passage or access over such street, or not ";

(*2*) in section 303, sub-section (*1*), of the said Act, after the word "every" insert the word "such", and

(*3*) in section 304, sub-sections (*1*) and (*2*), of the said Act, before the words "new private street", insert the word "such".

44. In section 337, sub-section (*1*), of the said Act, delete the word "and", and after the word "dimensions" add the following words, namely :— Amendment of section 337, sub-section (*1*).

"and the name of the person whom he intends to employ to surpervise its erection."

45. (*1*) Section 338 of the said Act shall be re-numbered section 338, sub-section (*1*). Amendments in section 338.

(*2*) For clauses (*a*) and (*b*) of the said sub-section the following clauses shall be substituted, namely :—

[*Vol. III of this Code, p. 1120.*]

(*3*) To clause (*c*) of the said sub-section the following words shall be added, namely :—

"and the means of access to such building."

(*4*) After the said sub-section the following sub-section shall be inserted, namely :—

[*Vol. III of this Code, p. 1121.*]

46. In section 342 of the said Act, after the word "executed", delete the word "and", and after the word "work", where it occurs for the second time, add the following words, namely :— Amendment of section 342.

"and the name of the person whom he intends to employ to supervise its execution."

47. (*1*) In sub-section (*1*) of section 343 of the said Act after the words "plans and sections", insert the words "of the building and"; and after the words "of the intended new work", where they occur for the second time, substitute for the remaining words of the said sub-section the words "and the provisions of sections 338, 339, 340 and 341 shall apply to the intended new work so far as the Commissioner may consider them to be applicable." Amendment of section 343.

(*2*) After the said sub-section the following sub-section shall be inserted, namely :—

[*Vol. III of this Code, p. 1122.*]

(*3*) Sub-section (*2*) of the said section shall be deleted.

48. In section 344, sub-section (*2*), of the said Act, Amendments of section 344, sub-section (*2*).

(*a*) after the figures "343" the figures and letter "344A" shall be inserted; and

(*b*) for the word and figures "and 349" the figures, letters and word "349, 349A, 349B and 349C" shall be substituted.

Insertion of a section after section 344.

49. Before section 345 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1123.*]

Insertion of a clause in section 347, sub-section (*1*).

50. After clause (*a*) of section 347, sub-section (*1*), of the said Act the following clause shall be inserted, namely :—

[*Vol. III of this Code, p. 1125.*]

Provisions as to buildings which are to be newly erected.

51. In section 348, sub-section (*1*), of the said Act

(*a*) the words " on any site previously unbuilt upon" are hereby repealed ;

(*b*) clause (*e*) shall be deleted and the subsequent clauses re-numbered accordingly ;

(*c*) in clause (*g*), for the word " eight " the word " ten " shall be substituted ;

(*d*) in clause (*h*),

(i) for the word " seven " the word " eight " shall be substituted, and

(ii) after the word " ceiling " the words " and a minimum height of not less than four feet " shall be inserted ;

(*e*) in clause (*j*), for the word " eighty " the words " one hundred " shall be substituted.

Insertion of sections after section 349.

52. After section 349 of the said Act, the following sections shall be inserted, namely :—

[*Vol. III of this Code, p. 1128.*]

Insertion of a section after section 353.

53. After section 353 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1131.*]

Insertion of a section after section 354.

54. After section 354 of the said Act the following section shall be inserted, namely :—

[*Vol. III of this Code, p. 1132.*]

Substitution of sections for section 379.

55. For section 379 of the said Act the following sections shall be substituted, namely :—

[*Vol. III of this Code, p. 1139.*]

Amendments in section 461, clause (*c*).

56. (*1*) In section 461, clause (*c*), of the said Act,

(*a*) the word " new " is hereby repealed, and

(*b*) after the word " chimneys " the words " the materials, dimensions and strength of floors and staircases, and of all scantlings, girders, posts and columns " shall be inserted.

Insertion of new clauses in section 461.

(*2*) After clause (*c*) of the said section the following clause shall be inserted, namely :—

[*Vol. III of this Code, p. 1168.*]

(*3*) After clause (*d*) of the said section the following clause shall be inserted, namely :—

[*Vol. III of this Code, p. 1164.*]

Amendments and repeal in section 470.

57. In section 470 of the said Act,

(*a*) in sub-section (*1*), before the word "repealed" the words "modified or" shall be inserted, and

(*b*) in sub-section (*2*), before the word "repeal" the words "modify or" shall be inserted, and for the proviso to the said sub-section the following proviso shall be substituted, namely :—

[*Vol. III of this Code, p. 1172.*]

(*c*) in sub-section (*3*), before the word "repeal" the words "modification or" shall be inserted.

Substitution of sections for sections 471 and 472.

58. For sections 471 and 472 of the said Act the following sections shall be substituted, namely :—

[*Vol. III of this Code, p. 1172.*]

Substitution of a sub-section for section 489, sub-section (*2*).

59. For sub-section (*2*) of section 489 of the said Act the following sub-section shall be substituted, namely :—

[*Vol. III of this Code, p. 1193.*]

Insertion of schedules.

60. After schedule R of the said Act the following schedules shall be inserted, namely :—

SCHEDULES S AND T.

[*Vol. III of this Code, p. 1222.*]

BOMBAY ACT No. 1 OF 1906.[1]

[*1st June, 1906.*]

An Act further to amend the Act to declare the constitution of Courts of Civil and Criminal Judicature in the Province of Sind.

WHEREAS it is expedient further to amend the [2] Act to declare the constitution of Courts of Civil and Criminal Judicature in the Province of Sind, in manner hereinafter appearing ;

Bom. XII of 1866.

And whereas the previous sanction of the Governor General required by

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1906, Pt. VII, p 3 ; for Report of Select Committee, *see ibid*, 1906, Pt. VII, p. 50, and for Proceedings in Council, *see ibid*, 1906, Pt. VII, pp. 30 and 65.

[2] Vol. II of this Code, *supra*, p. 458.

section 5 of the [1] Indian Councils Act, 1892, has been obtained for the passing of the Act ; It is hereby enacted as follows :—

Short title.

1. (*1*) This Act may be called the Sind Courts Amendment Act, 1906.

(*2*) It shall come into force upon such day[2] as the Local Government, by notification in the Bombay Government Gazette, may direct.

(*3*) All proceedings pending on such day in the Sadar Court or in the District Court or Court of Sessions of Karachi shall be deemed to be transferred to the Court of the Judicial Commissioner and shall be tried, heard and determined as if they had been instituted in the Court of the Judicial Commissioner and all appeals and applications in suits or other matters pending on such day in any Court which but for the passing of this Act would have lain to the Sadar Court or the District Court or Court of Sessions of Karachi shall be deemed to lie to the Court of the Judicial Commissioner.

Substitution of sections for section 1.

2. For section 1 of the Act to declare the constitution of Courts of Civil and Criminal Judicature in the Province of Sind, hereinafter called "the said Act," the following sections shall be substituted, namely :— Bom. XII of 1866.

[*Vol. II of this Code, p. 459.*]

Amendment in section 2.

3. In section 2 of the said Act after the word "and" the words "save as hereinbefore provided" shall be inserted.

Repeal of section 7.

4. Section 7 of the said Act is hereby repealed.

Substitution of section for section 9.

5. For section 9 of the said Act the following section shall be substituted, namely :—

[*Vol. II of this Code, p. 461.*]

Insertion of sections after section 9.

6. After section 9 of the said Act the following sections shall be inserted, namely :—

[*Vol. II of this Code, p. 461.*]

Substitution of section for section 10.

7. For section 10 of the said Act, the following section shall be substituted, namely :—

[*Vol. II of this Code, p. 462.*]

Insertion of section after section 15.

8. After section 15 of the said Act the following section shall be inserted, namely :—

[*Vol. II of this Code, p. 463.*]

Substitution of expressions.

9. (*1*) For the expressions "Governor in Council" and "Governor General of India in Council," wherever they occur in the said Act, the expressions "Local Government" and "Government of India" shall respectively be substituted.

(*2*) For the expression "Sadar Court" occurring in sections 6, 16 and 17 shall be substituted the expression "Court of the Judicial Commissioner."

Amendment in section 21.

10. In section 21 of the said Act

for the proviso the following shall be substituted, namely :—

[*Vol. II of this, Code, p. 464.*]

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[1] Collection of Statutes relating to India. Vol. II.

[2] 25th June 1906, *see* Bom.Govt. Gazette, 1906, Pt. I, p. 692.

BOMBAY ACT No. II OF 1906.[1]

[*29th October, 1906.*]

An Act to consolidate and amend the law relating to the powers and procedure of Mámlatdárs' Courts.

WHEREAS it is expedient to consolidate and amend the law relating to the powers and procedure of Mámlatdárs' Courts; It is hereby enacted as follows :— Preamble.

1. (*1*) This Act may be called the Mámlatdárs' Courts Act, 1906. Short title.

(*2*) It shall extend to the whole of the Bombay Presidency, except the City of Bombay and Aden. Local extent.

Bom. III of 1876.

2. The Mámlatdárs' Courts Act, 1876, is hereby repealed. Repeal of Bom. III of 1876.

3. In this Act, unless there is anything repugnant in the subject or context, Interpretation.

(*a*) the word "Mámlatdár" shall include any Revenue-officer exercising for the time being the powers of a Mámlatdár, of a Mukhtyárkár, or of a Mahálkari, and any other person who may be specially authorized by the Governor in Council to exercise the powers of a Mámlatdár under this Act; and

(*b*) the words "plaintiff" and "defendant" shall include

(i) a pleader duly appointed to act on behalf of such plaintiff or defendant, and

(ii) the recognized agent of a plaintiff or defendant as defined in section 37 of the [2] Code of Civil Procedure.

XIV of 1882.

4. (*1*) The Governor in Council may, by notification in the Bombay Government Gazette, appoint in any táluká a Joint Mámlatdár under this Act who shall be invested with co-extensive powers and a concurrent jurisdiction with the Mámlatdár, except that he shall dispose of such suits only as he may receive from the Mámlatdár. Power to appoint Joint Mámlatdár.

(*2*) The Mámlatdár is hereby empowered to transfer to the Joint Mámlatdár for disposal any suit under this Act the plaint in which has been presented to the Mámlatdár under section 7, and to re-transfer to his own file any such suit, of which the Joint Mámlatdár is, owing to death, sickness or any other cause, unable to dispose. Power of Mámlatdár to transfer suits to the Joint Mámlatdár.

(*3*) The Governor in Council may [3] delegate his powers under sub-section (*1*) to the Commissioner. Delegation of powers to Commissioner.

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1905, Pt. VII, p. 520; for Report of Select Committee, *see ibid*, 1906, Pt. VII, p. 5, and for Proceedings in Council, *see ibid*, 1905, Pt. VII, p. 578; *ibid*, 1906, Pt. VII, pp. 31 and 189.

2 *See* Act 14 of 1882 as modified up to 1st December, 1899.

3 For instance of such a notfn., *see* Bombay Government Gazette, 1907, Vol, I, p. 409.

Powers of Mámlatdárs' Courts.

5. (*1*) Every Mámlatdár shall preside over a Court, which shall be called a Mámlatdár's Court, and which shall, subject to the provisions of sections 6 and 26, have power, within such territorial limits as may from time to time be fixed by the Governor in Council, to give immediate possession of any lands or premises used for agriculture or grazing, or trees, or crops, or fisheries, or to restore the use of water from any well, tank, canal or water-course, whether natural or artificial, used for agricultural purposes to any person who has been dispossessed or deprived thereof otherwise than by due course of law, or who has become entitled to the possession or restoration thereof by reason of the determination of any tenancy or other right of any other person, not being a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property or use claimed, or who is the legal representative of such former owner or part-owner :

provided that, if in any case the Mámlatdár considers it inequitable or unduly harsh to give possession of any such property or to restore any such use to a person who has become entitled thereto merely by reason of the determination of any such tenancy or other right, or if it appears to him that such case can be more suitably dealt with by a Civil Court, he may in his discretion refuse to exercise the power aforesaid, but shall record in writing his reasons for such refusal.

Power to issue injunction.

(*2*) The said Court shall also, subject to the same provisions, have power within the said limits, when any person is otherwise than by due course of law disturbed or obstructed, or when an attempt has been made so to disturb or obstruct any person, in the possession of any lands or premises used for agriculture or grazing, or trees, or crops, or fisheries, or in the use of water from any well, tank, canal or water-course, whether natural or artificial, used for agricultural purposes, or in the use of roads or customary ways thereto, to issue an injunction to the person causing, or who has attempted to cause, such disturbance or obstruction, requiring him to refrain from causing or attempting to cause any further such disturbance or obstruction.

Suits to be filed within six months.

(*3*) No suit shall be entertained by a Mámlatdár's Court unless it is brought within six months from the date on which the cause of action arose.

Cause of action.

(*4*) The cause of action shall be deemed to have arisen on the date on which the dispossession, deprivation, or determination, of tenancy or other right occurred ; or on which the disturbance or obstruction, or the attempted disturbance or obstruction, first commenced.

Explanation.—The exercise by a joint owner of any right which he has over the joint property is not a dispossession, or disturbance of possession, of the other joint owner or owners within the meaning of this section.

Illustration I.

A lets *B* his field to cultivate for a specific period of one or more years. *B* refuses to resign possession after the expiration of that period. *A* can sue for possession in the Mámlatdár's Court at any time within six months from the date of the expiration of the said period, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property, or who is the legal representative of such former owner or part-owner.

Illustration II.

Bom. V of 1879.

B is a yearly tenant of *A*, who gives him a notice to vacate, as he is bound to do under section 84 of the [1] Bombay Land-Revenue Code, 1879, at least three months before the end of the then current year of tenancy. At the commencement of the next year *B* refuses to vacate. *A* can sue *B* in the Mámlatdár's Court at any time within six months from the commencement of that year, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property, or who is the legal representative of such former owner or part-owner.

Illustration III.

A allows *B* the use of water from his well, or from his water-course, for a specific period, at the expiration of which B continues to take water from the well or water-course without *A*'s consent. *A* may sue *B* in the Mámlatdár's Court at any time within six months from the expiration of the said period to obtain an injunction to stop *B* from taking the water, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the use of the water, or who is the legal representative of such former owner or part-owner.

Illustration IV.

A and *B* hold lands adjacent to a पाट or फांस, or similar artificial water-course, which has hitherto been exclusively used by *B*. *A* draws water therefrom. *B* may sue in the Mámlatdár's Court, at any time within six months from the date on which *A* commences to take the water, for an injunction to prevent *A* from so doing.

Power of Collector to

6. The Collector may, after due notice to the parties, by order in writing transfer any suit from any Mámlatdár's Court in his district to any other

[1] Vol. II of this Code, p. 631.

transfer suits.

Mámlatdár's Court in his district, and the Mámlatdár's Court to which the suit is so transferred shall thereupon exercise jurisdiction in such suit; but any order issued to village-officers under section 21 shall be issued by the Mámlatdár to whom such village-officers are subordinate.

Suits commenced by plaint. Contents of plaint.

7. All suits under this Act shall be commenced by a plaint, which shall be presented to the Mámlatdár in open Court by the plaintiff, and which shall contain the following particulars :—

(*a*) the name, age, religion, caste, profession and place of abode of the plaintiff;

(*b*) the name, age, religion, caste, profession and place of abode of the defendant;

(*c*) the nature and situation of the property of which possession or use is sought, or the nature of the injunction to be granted, as the case may be;

(*d*) the date on which the cause of action arose;

(*e*) the circumstances out of which the cause of action arose; and

(*f*) a list of the plaintiff's documents, if any, and of his witnesses, if any, shewing what evidence is required from each witness, and whether such witnesses are to be summoned to attend, or whether the plaintiff will produce them on the day and at the place to be fixed under section 14.

Informal petitions to be treated as plaints.

8. Where a petition not in the form of a plaint is presented to the Mámlatdár and the subject matter thereof appears to fall within the scope of section 5, the Mámlatdár shall explain to the person presenting the petition the nature of the reliefs afforded by this Act and shall inquire whether the petitioner desires to obtain relief thereby. If the petitioner expresses a desire so to obtain relief, the Mámlatdár shall endorse the desire on the petition which shall thereupon be deemed to be a plaint presented under section 7.

Examination of plaintiff on oath.

9. Where the plaint does not contain the particulars specified in section 7 or is unnecessarily prolix, the Mámlatdár shall forthwith examine the plaintiff upon oath and ascertain from him such of the particulars specified in section 7 as are not clearly and correctly stated in the plaint and shall reduce the examination to writing in the form of an endorsement on or annexure to the plaint which shall thereupon be deemed to be part of the plaint. Where the plaintiff requires time to obtain any of the particulars specified in section 7, the Mámlatdár shall grant him such time as may under all the circumstances appear reasonable.

Plaint to be subscribed and verified.

10. When the plaint is presented, and has, if necessary, been treated in the manner specified in section 9, the Mámlatdár shall require the plaintiff

to subscribe and verify the plaint in his presence, in open Court, in the manner following, or to the like effect:—

"I, *A. B.*, the plaintiff, do declare that what is stated in this plaint is true to the best of my information and belief."

Endorsement by Mámlatdár.

11. (*1*) The Mámlatdár shall endorse the plaint to the effect that it was duly subscribed and verified.

Procedure where plaintiff cannot write.

(*2*) Where the plaintiff cannot write, the verification may be written for him in open Court and he shall affix his mark to his name in token of the authenticity of the verification, and the Mámlatdár shall, in such case, record that the verification was made in his presence at the request of the plaintiff, and that his mark was so affixed.

Rejection of plaint.

12. The Mámlatdár shall reject the plaint

(*a*) where the plaintiff declines to make a statement on oath under section 9; or

(*b*) where the plaintiff is willing to make or has made a statement on oath under section 9, but fails to furnish the particulars specified in section 7 within the time fixed under section 9 or altogether; or

(*c*) where it appears upon the face of the plaint,

(*i*) that the property or use claimed is not one of the kind specified in section 5, or

(*ii*) that the cause of action arose more than six months before the plaint was presented; or

(*d*) where the plaintiff declines to subscribe or verify the plaint as required by sections 10 and 11.

Return of plaint.

13. Where it appears to the Mámlatdár that the subject of the plaint is not within his jurisdiction, he shall return the plaint to be presented in the proper Court.

Procedure where plaint admissible.

14. (*1*) Where a plaint is admissible, the Mámlatdár shall receive and file it. He shall then fix a convenient day and place for the trial of the case, and shall issue, at the expense of the plaintiff, notice in the form of schedule A to the defendant. He shall then require the plaintiff to appear with his documents, if any, and witnesses, if any, on the day and at the place fixed.

(*2*) The date to be fixed for the trial of the case shall not be earlier than ten days, nor later than fifteen days, from the day on which the notice is issued, except for sufficient reason to be recorded in writing by the Mámlatdár with his own hand.

(*3*) The place to be fixed for the trial of the case may be in the Mámlatdár's office, or at or near the scene of dispute, or at any other spot that the Mámlatdar considers convenient to the parties.

Attendance of witnesses.

15. (*1*) Where either party requires any witness to be summoned to appear on the day and at the place fixed, the Mámlatdár shall issue a summons for that purpose.

(*2*) The Mámlatdár may issue, after recording his reasons in writing, a warrant for the arrest of any such witness if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

(*3*) The payment of the cost incurred in thus procuring the attendance of witnesses shall be regulated in accordance with the rules that may from time to time be in force in regard to the attendance of witnesses in Subordinate Civil Courts.

Where plaintiff makes default, plaint to be rejected with costs.

16. (*1*) Where the plaintiff fails to attend, or to produce his documents, if any, or to adopt measures to procure the attendance of his witnesses, if any, on the day and at the place fixed, the Mámlatdár shall reject the plaint with costs, whether the defendant appears or not, unless the defendant admits the claim.

Where defendant does not appear, case to be heard *ex parte*.

(*2*) Where the plaintiff attends as required by section 14, sub-section (1), but the defendant fails to attend, and the Mámlatdár is satisfied from the evidence before him that the notice has been duly served on the defendant, and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall proceed to hear and decide the plaint *ex parte*:

But case may be reheard on sufficient cause being shown

provided, *firstly*, that, if either party satisfies the Mámlatdár at any time within thirty days from the date of the rejection of a plaint under sub-section (*1*), or of an *ex parte* decision under sub-section (*2*), that he was prevented by some unavoidable circumstance from attending, or from producing his documents or from adopting measures to procure the attendance of his witnesses, as the case may be, it shall be lawful for the Mámlatdár to issue a notice in the form of Schedule B at the expense of the applicant to the opposite party, and, if still satisfied after hearing the opposite party that the applicant was prevented as alleged, to re-hear the case at such time and place as he may then fix :

or plaintiff may withdraw his suit.

provided, *secondly*, that nothing in the foregoing provisions shall prevent the plaintiff from withdrawing his suit on payment of the defendant's costs.

When proceedings may be adjourned.

17. (*1*) Where, in the case mentioned in sub-section (*2*) of section 16, the Mámlatdár is not satisfied from the evidence before him that the notice has been duly served on the defendant, and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall adjourn the trial of the case and issue a fresh notice under section 14, sub-section (*1*), to the defendant.

(*2*) Where any witness who has been duly summoned, or for whose arrest a warrant has been issued under sub-section (*2*) of section 15, fails to

attend on the day and at the place fixed, the Mámlatdár may, if he considers there is sufficient reason, after taking the evidence of those present, adjourn the hearing of the suit from time to time till the attendance of such witness can be enforced.

(*3*) The Mámlatdár may, for any other sufficient reason to be recorded in writing, adjourn the trial of the case for such time as he thinks fit, but not ordinarily exceeding ten days.

(*4*) The provisions of sections 15 and 16 shall apply in respect of any day to which the trial of the case may be adjourned under this section, as if such day were the day originally fixed for the trial.

Minor may be a party.

18. (*1*) A minor may sue or be sued, if he is represented by a natural or duly appointed guardian.

Power to add parties.

(*2*) The Mámlatdár may, at any stage of the proceedings, order that the name of any person to whom possession or enjoyment of the property or use claimed, or of any part thereof, may have been transferred, or the addition of whom as a party appears necessary in order to enable the Court effectually and completely to adjudicate upon the issues, be added as a plaintiff or defendant, as the circumstances of the case may require :

provided that no person shall be added as a plaintiff without his consent :

provided also that in respect of any person so added, not being a transferee pending the suit, the suit shall for the purposes of section 5, sub-section (*3*), be deemed to have been instituted on the day when his name was so added.

Procedure in case of death of party.

(*3*) In case of the death of any party while the suit is pending,

(*i*) if application is made within one month of such death, the Mámlatdár shall determine summarily who is the legal representative of the deceased party and shall enter on the record the name of such representative ;

(*ii*) if no such application is made, the suit shall abate.

(*4*) Where the Mámlatdár orders the name of any person to be added as a defendant or enters on the record the name of any person as the legal representative of a deceased defendant, the Mámlatdár shall issue to such person a notice as provided in section 14 ; and the trial shall proceed on the date fixed in such notice.

Points to be decided by Mámlatdár at hearing.

19. (*1*) On the day fixed, or on any day to which the proceedings may have been adjourned, the Mámlatdár shall, subject to the provisions of section 16, proceed to hear all the evidence that is then and there before him, and to try the following issues, namely :—

(*a*) If the plaintiff avers that he has been unlawfully dispossessed of any property or deprived of any use :—

(*1*) whether the plaintiff or any person on his behalf or through whom he claims was in possession or enjoyment of the property or use

claimed up to any time within six months before the suit was filed;

(*2*) whether the defendant is in possession at the time of the suit, and if so whether he obtained possession otherwise than by due course of law;

(*b*) if the plaintiff avers that he is entitled to possession of any property or restoration of any use by reason of the determination of any tenure or other right of the defendant in respect thereof:—

(*1*) whether the defendant is in possession of the property or in the enjoyment of the use by a right derived from the plaintiff or from any person through whom he claims;

(*2*) whether such right has determined at any time within six months before the suit was filed;

(*3*) whether the defendant is other than a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property or use claimed, and other than the legal representative of such former owner or part-owner;

(*c*) if the plaintiff avers that he is still in possession of the property, or in the enjoyment of the use, but that the defendant disturbs or obstructs, or has attempted to disturb or obstruct, him in his possession or use:—

(*1*) whether the plaintiff or any person in his behalf is actually in possession or enjoyment of the property or use claimed;

(*2*) whether the defendant is disturbing or obstructing, or has attempted to disturb or obstruct, him in such possession or enjoyment;

(*3*) whether such disturbance or obstruction, or such attempted disturbance or obstruction, first commenced within six months before the suit was filed.

Power of Mámlatdár to examine other witnesses and inspect property in dispute.

(*2*) The Mámlatdár may, after due notice to, and in the presence of, the parties, summon and examine as a witness any person who has not been summoned or produced, and may call for and cause to be proved any document which has not been applied for or produced, by either of the parties, where he considers it expedient in the interests of justice so to do, and may, if he thinks fit, make a personal inspection of the property in dispute in the presence of, or after due notice to, the parties.

Record of proceedings by Mámlatdár.

(*3*) The Mámlatdár shall with his own hand make or sign a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds, and briefly record his reasons for his finding.

Orders to be passed by

(*4*) Where the Mámlatdár's finding upon the issues is in favour of the plaintiff, he shall make such order, not being in excess of the powers vested in

him by section 5, as the circumstances of the case appear to him to require; and where his finding is in favour of the defendant, he shall dismiss the suit. In either case the costs of the suit, including the costs of execution, shall follow the decision. Mámlatdár upon decisions in favour of plaintiff and defendant.

20. Every order of the Mámlatdár, whether for rejecting or returning a plaint or whether for allowing or disallowing a claim, shall be endorsed by the Mámlatdár on the plaint and shall be read out by him in open Court, either at once or on some future day of which due notice shall be given to the parties or their pleaders, and brief reasons for the order shall be placed by him on record. Mámlatdár's order to be endorsed on plaint and read out in open Court.

21. (*1*) Where the Mámlatdár's decision is for awarding possession or restoring a use, he shall give effect thereto by issuing such orders to the village-officers, or to any subordinate under his control, or otherwise, as he thinks fit: Mámlatdár's decision how executed.

provided that, notwithstanding anything contained in this Act, where, at the time when a decision is recorded by the Mámlatdár for awarding possession of any land, there is a crop on such land which has been sown by, or at the expense of, the defendant, and the Mámlatdár is satisfied that it has been so sown in good faith, the Mámlatdár may, and if the defendant makes an application for the purpose and furnishes sufficient security, or deposits in Court a sufficient sum, for the payment of the costs of the suit, shall pass an order staying delivery of possession of such land to the plaintiff seeking possession thereof, either Proviso as to growing crops.

(*a*) until the plaintiff agrees to take the crop at a valuation, to be made under the orders of the Mámlatdár, according to the value of the crop at such time, including any instalments of the Government assessment which the defendant may have paid for the current year: or

(*b*) where the plaintiff is unwilling to take the crop at such valuation, until after the expiration of sufficient time for the crop to be gathered by the defendant.

The amount of any valuation made under clause (*a*) of the proviso to this sub-section shall be paid to the defendant through the Mámlatdár, and shall be recoverable from the plaintiff as an arrear of land-revenue.

(*2*) Where the Mámlatdár's decision is for granting an injunction, he shall cause the same to be prepared in the form of schedule C, and shall deliver or tender the same then and there to the defendant, if present, or, if the defendant is not present, shall send it to the village-officers, or to any subordinate under his control, to be served upon the defendant. Mode of serving injunction.

(*3*) Where the Mámlatdár awards costs, such costs, together with the costs of execution, shall be recoverable from the party ordered to pay them as an arrear of land-revenue. Recovery of costs awarded.

Disobedience to an injunction how punishable.

(*4*) Any person disobeying an injunction granted under sub-section (*2*) shall be punishable under section 188 of the [1] Indian Penal Code. XLV of 1860.

Possession to be given without prejudice to rights of parties.

22. Subject to the provisions of section 23, sub-section (*2*) and section 24, the party to whom the Mámlatdár gives possession, or restores a use, or in whose favour an injunction is granted, shall continue in possession or use until ousted by a decree or order of a competent Civil Court:

provided, *firstly*, that nothing in this section shall prevent the party against whom the Mámlatdár's decision is passed from recovering by a suit in a competent Civil Court mesne profits for the time he has been kept out of possession of any property, or out of enjoyment of any use:

provided, *secondly*, that in any subsequent suit or other proceeding in any Civil Court between the same parties, or other persons claiming under them, the Mámlatdár's decision respecting the possession of any property or the enjoyment of any use or respecting the title to or valuation of any crop dealt with under the proviso to sub-section (*1*) of section 21, shall not be held to be conclusive.

Bar of appeal.

23. (*1*) There shall be no appeal from any order passed by a Mámlatdár under this Act.

Collector's power to revise Mámlatdár's proceedings.

(*2*) But the Collector may call for and examine the record of any suit under this Act, and if he considers that any proceeding, finding or order in such suit is illegal or improper, may, after due notice to the parties, pass such order thereon, not inconsistent with this Act, as he thinks fit.

Collector deemed to be a Court.

(*3*) Where the Collector takes any proceedings under this Act he shall be deemed to be a Court under this Act.

Powers of the Court of the Judicial Commissioner of Sind.

24. The Court of the Judicial Commissioner of Sind may exercise over Mámlatdárs' Courts in the Province of Sind the powers exercised by the High Court of Bombay, over Mámlatdárs' Courts in other parts of the Bombay Presidency.

Punishment for verification of false plaint.

25. Any plaintiff subscribing and verifying any plaint under this Act which he either knows or believes to be false, or does not believe to be true, in any material point, shall be deemed to have committed an offence punishable under section 193 of the [1] Indian Penal Code. XLV of 1860.

Bar of certain suits.

26. No suit shall lie under this Act

(*a*) against Government or against any officer of Government in respect of any act done or purporting to be done by any such officer in his official capacity, except where acting as a manager or guardian duly constituted under any law for the time being in force; or

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[1] *See* Act 45 of 1860 as modified up to 1st April, 1903.

(*Schedule A.*)

(*b*) in respect of any dispossession, recovery of possession or disturbance of possession, that has been the subject of previous proceedings, to which the plaintiff or his predecessor in interest was a party, under this Act, or in a Civil Court, or under Chapter XII of the V of 1898. [1]Code of Criminal Procedure, 1898.

SCHEDULE A.

FORM OF NOTICE TO BE ISSUED TO THE DEFENDANT UNDER SECTION 14.

Seal of the Court.

NO. OF SUIT.

In the Court of the Mamlatdar of

Plaintiff.

Defendant.

TO DEFENDANT—(*name, age, religion, caste, profession and place of abode*).

WHEREAS (*here enter the name, age, religion, caste, profession and place of abode of the plaintiff*) has instituted a suit in this Court against you (*here state the particulars of the plaint*):

You are hereby summoned to appear in this Court at the village of in person or by duly authorized agent on the day of at o'clock *m.*, to answer the above-named plaintiff; and, as the plaint will be finally disposed of on that day, you must adopt measures to produce your documents and procure the attendance of your witnesses at the hour and place above fixed; and you are hereby required to take notice that, in default of such appearance at the before mentioned time and place, the suit will be heard and determined in the absence of yourself and your agent.

Dated this day of 19 .

(*Signed*)

Mámlatdár.

Note.—If you require your witnesses to be summoned by the Court, you should make an application to that effect to the Court without delay, so as to allow of the service of the summonses a reasonable time before the within-mentioned date.

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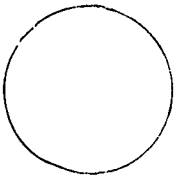
[1] *See* Act 5 of 1898, as modified up to 1st April, 1903.

(*Schedule B.*)

SCHEDULE B

FORM OF NOTICE TO BE ISSUED UNDER SECTION 16.



No. OF SUIT.

In the Court of the Mámlatdár of

Plaintiff.

Defendant.

TO PLAINTIFF (*or* DEFENDANT, *as the case may be*).

WHEREAS, in the suit above specified, instituted in this Court by , the Court ordered on the day of last that , and the said plaintiff (*or defendant, as the case may be*) has, under date the day of , applied to this Court to re-hear the case *on the grounds that* (*here state the grounds*):

This is to give you notice that the said application will be heard and determined on the day of at o'clock *m.* at the village of , and you are hereby required to take notice that in default of your appearance personally or by agent at the said time and place, the application will be heard and determined in your absence and, if granted, a time and place for re-hearing the suit will then be fixed.

Dated this day of 19

(*Signed*)

Mámlatdár.

SCHEDULE C.

FORM OF INJUNCTION TO BE ISSUED UNDER SECTION 21, SUB-SECTION (*2*).

Seal of the Court.

No. OF SUIT.

In the Court of the Mámlatdár of

Plaintiff.

Defendant.

TO DEFENDANT

WHEREAS in the suit above specified the Court has this day found that you have disturbed or obstructed (*or* that you have attempted to disturb or obstruct) the said plaintiff in his possession of the under-mentioned property (*or* enjoyment of the under-mentioned use of water *or* use of roads, *or otherwise as the case may be*) by (*here describe the disturbance or obstruction or attempted disturbance or obstruction found proved*) :

You are hereby prohibited from making any further attempt to disturb or obstruct (*if necessary set forth the particular kind of disturbance or obstruction which the defendant is enjoined not to repeat*) the said plaintiff in his possession of the said property (*or otherwise as the case may be*) otherwise than in execution of the decree of a competent Civil Court.

Dated this day of 19

(*Signed*)

Mámlatdár.

BOMBAY ACT No. I OF 1907. [1]

[*13th August, 1907.*]

An Act further to amend the [2]Bombay Tramways Act, 1874.

Bom. I of 1874.

WHEREAS it is expedient further to amend the [2]Bombay Tramways Act,

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1907, Pt. VII, p. 22, and for Proceedings in Council, *see ibid*, 1907, Pt VII, pp. 45 and 113.

[2] Vol. II of this Code, p. 495.

1874, in manner hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Bombay Tramways (Amendment) Act, 1907.

Amendment of section 6. 2. To section 6 of the Bombay Tramways Act, 1874, hereinafter called " the said Act," the words " without the consent of the said corporation " shall be added. Bom. I of 1874.

Amendment of section 9. 3. In section 9 of the said Act—

(*a*) the word " maximum " is hereby repealed;

(*b*) for the words " be eight miles per hour " the following words shall be substituted, namely :—

" not exceed such maximum as the Municipal Commissioner, with the previous sanction of Government, shall from time to time prescribe."

BOMBAY ACT No. II OF 1907.[1]

[*27th August, 1907.*]

An Act further to amend the [2]Dekkhan Agriculturists' Relief Act, 1879.

Preamble. WHEREAS it is expedient further to amend the [2] Dekkhan Agriculturists' Relief Act, 1879, in manner hereinafter appearing; XVII of 1879.

And whereas the previous sanction of the Governor General required by section 5 of the [3]Indian Councils Act, 1892, has been obtained to the passing of this Act; 55 and 56 Vict., c. 49.

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Dekkhan Agriculturists' Relief (Amendment) Act, 1907.

Insertion of section in Chapter III. 2. In Chapter III, before section 11, of the Dekkhan Agriculturists' Relief Act, 1879, hereinafter called the said Act, the following section shall be inserted, namely :— XVII of 1879.

" 10A. Whenever it is alleged at any stage of any suit or proceeding to which an agriculturist is a party that any transaction in issue entered into by such agriculturist or the person, if any, through whom he claims was a transaction of such a nature that the rights and liabilities of the parties thereunder are triable wholly or in part

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1907, Pt. VII, p. 2; for Report of Select Committee, *see ibid*, 1907, Pt. VII p. 23, and for Proceedings in Council, *see ibid*, 1907, Pt. VII, pp. 39 and 106.

2 Vol. I of this Code, p. 141.

3 Collection of Statutes relating to India, Vol. II, p. 754.

I of 1872.

under this chapter, the Court shall, notwithstanding anything contained in section 92 of the [1] Indian Evidence Act, 1872, or in any other law for the time being in force, have power to enquire into and determine the real nature of such transaction and decide such suit or proceeding in accordance with such determination and shall be at liberty, notwithstanding anything contained in any law as aforesaid, to admit evidence of any oral agreement or statement with a view to such determination and decision :

provided that such agriculturist or the person, if any, through whom he claims was an agriculturist at the time of such transaction :

provided further that nothing in this section shall be deemed to apply to any suit to which a *bonâ fide* transferee for value without notice of the real nature of such transaction or his representative is a party where such transferee or representative holds under a registered deed executed more than twelve years before the institution of such suit.

Illustrations.

(*a*) A landlord sues for possession of land leased by him to an agriculturist. The defendant alleges that he mortgaged the land with possession to the lessor, who is entitled to its possession only as such mortgagee and not as owner, and asks that he may be allowed to redeem the mortgage without being ejected. The Court may admit evidence on this allegation, and, if satisfied that it is correct, may decline to eject the defendant as tenant, and allow the suit to be converted into one for redemption of the mortgaged property.

(*b*) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a lease. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a lease, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

(*c*) A money-lender sues to enforce a sale-deed entered into by an agriculturist. It is alleged that there was a contemporaneous oral agreement that the transaction should be deemed to be a mortgage. The Court may admit evidence of such oral agreement, and if satisfied of the existence of the agreement may decline to enforce the deed as a sale-deed.

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[1] *See* Act 1 of 1872, as modified up to 1st September, 1906.

(*d*) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a sale. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a sale, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed."

Insertion of section after section 22.

3. After section 22 of the said Act, the following section shall be inserted, namely: —

"22A. (*1*) When any immoveable property belonging to an agriculturist has been sold by public auction under the provisions of section 325 of the [1]Code of Civil Procedure, the sale may within thirty days from the date of the auction be set aside by the Collector, if he considers the price bid by the purchaser to be inadequate. XIX of 1882.

(*2*) When the sale is so set aside the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be, and the Collector may re-sell the property by public auction or private contract, as he thinks fit. Every such re-sale shall be deemed to be a sale under the provisions of section 325 of the [1]Code of Civil Procedure." XIV of 1882.

BOMBAY ACT No. III OF 1907.[2]

[*16th January, 1908.*]

An Act further to amend the Bombay Vaccination Act, 1877, the City of Bombay Municipal Act, 1888, and the City of Bombay Improvement Act, 1898, and to amend the Bombay Motor-vehicles Act, 1904.

WHEREAS it is expedient that the Municipal Corporation of the City of Bombay should be relieved of all expenses on account of the police of the city of Bombay and that in place thereof the said corporation should undertake certain medical, educational and other expenses heretofore devolving upon Government: And whereas it is therefore expedient further to amend the Bombay Vaccination Act, 1877, the City of Bombay Municipal Act, 1888, and the City of Bombay Improvement Act, 1898, and to amend the Bombay Bom. I of 1877. Bom. III of 1888. Bom. IV of 1898.

1 *See* Act 14 of 1882 as modified up to 1st December, 1899.

2 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1907, Part VII, p. 190; for Report of the Select Committee, *see ibid*, p. 420; and for Proceedings in Council, *see ibid*, pp. 396 and 445.

Bom. II of 1904. Motor-vehicles Act, 1904, in manner hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the City of Bombay Police Charges Act, 1907.

(*2*) Sections 9, 16, 18 and 24 and so much of section 10 as relates to sections 62 and 62D of the City of Bombay Municipal Act, 1888, as enacted by this Act, shall come into force on the first day of April, 1907, and the [1] rest of this Act shall come into force on a day to be notified in this behalf by the Governor in Council.

Bom. III of 1888.

Addition of sub-sections to section 2 of the Bombay Vaccination Act, 1877.

Bom. I of 1877.

2[2]. To section 2 of the [3] Bombay Vaccination Act, 1877, the following sub-sections shall be added, namely :—

(*7*) ' The corporation ' means the municipal corporation of the City of Bombay.

(*8*) ' The Commissioner ' means the Municipal Commissioner for the City of Bombay.

(*9*) ' The health officer ' means the officer for the time being holding the appointment of municipal executive health officer under the provisions of the City of Bombay Municipal Act, 1888.''

Amendment of section 3 of the same Act.

Bom. I of 1877.

3[1]. (*1*) In section 3 of the [2]Bombay Vaccination Act, 1877, for the words '' Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs '' the words '' Commissioner, with the approval of the corporation '' shall be substituted.

(*2*) For the words '' The Sanitary Commissioner or other officer aforesaid,'' where they occur for the first time in the said section, the words '' Subject to the provisions of the City of Bombay Municipal Act, 1888, the Commissioner '' shall be substituted.

(*3*) For the words '' Sanitary Commissioner or other officer aforesaid '' where they occur for the second time in the said section, the word '' Commissioner '' shall be substituted.

Amendment of sections 4, 6, 16, 17, 19 and 29 of the same Act.

Bom. I of 1877.

4[1]. In sections 4, 6, 16, 17, 19 and 29 of the [2]Bombay Vaccination Act, 1877, for the expressions '' Sanitary Commissioner for the Presidency of Bombay or such other officer as Government directs,'' '' Sanitary Commissioner or other officer aforesaid '' and '' Sanitary Commissioner or other officer,'' wherever they respectively occur, the expression '' Commissioner '' shall be substituted.

Amendment of section 5 of the same Act.

Bom. I of 1877.

5[1]. In section 5 of the [2]Bombay Vaccination Act, 1877, for the words '' Sanitary Commissioner or other officer aforesaid '' the words '' health officer '' shall be substituted.

Amendment of sections 6, 26 and 31 of the same Act.

Bom. I of 1877.

6[1]. (*1*) In section 6 of the [2] Bombay Vaccination Act, 1877, for the word '' Government,'' wherever it occurs, the words '' the corporation '' shall be submitted.

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[1] On the 1st March, 1909, *see* Bom. Govt., Gazette, 1909, Pt. I, p. 229.

[2] These amendments have not been incorporated in their proper places as these sections will come into force only when notified. *See* s. 1 (*2*).

[3] *Supra*, p. 569, Vol. II of this Code.

(*2*) In section 26 of the same Act for the word "Government" the words "the Standing Committee appointed under the provisions of the City of Bombay Municipal Act, 1888," shall be substituted.

(*3*) In section 31 of the same Act for the words "The Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, may, with the sanction of the Governor in Council" the words "The Commissioner may with the sanction of the corporation" shall be substituted.

Amendment of section 30 of the same Act.

7[1]. In section 30 of the [2]Bombay Vaccination Act, 1877, for the words "Executive officer of health for the City of Bombay, appointed under the provisions of the City of Bombay Municipal Act, 1888, or of the officer for the time being officiating in his appointment" the words "health officer" shall be substituted. Bom. I of 1877.

Amendment of sections 39 and 40 of the City of Bombay Municipal Act, 1888.

8.[1] (*1*) In section 39, sub-section (*1*), of the [3] City of Bombay Municipal Act, 1888, hereinafter called "the said Act," the words "and of Government each," "four members of" and "Joint" are hereby repealed. Bom. III of 1888.

(*2*) For sub-section (*3*) of the said section the following sub-section shall be substituted, namely :—

"(*3*) The two senior members of the said committee shall retire at the end of each calendar year but shall be eligible for re-appointment and the corporation shall from time to time appoint members to fill such vacancies and vacancies arising by the resignation or death of members."

(*3*) In sub-sections (*5*) (*9*) and (*10*) of the said section the word "Joint" is hereby repealed.

(*4*) In sub-section (*6*) of the said section the words "provide for the Joint Schools' Committee a competent secretary and such clerks and messengers as shall be necessary. It shall also" are hereby repealed.

(*5*) For sub-section (*7*) of the said section the following sub-section shall be substituted, namely :—

"(*7*) The Schools' Committee shall provide out of the funds placed at its disposal by the corporation for the accommodation and maintenance of primary schools which at any time vest wholly or partly in the corporation, and for otherwise aiding primary education in accordance with the provisions of this Act and with rules made by the corporation in this behalf."

(*6*) In sub-section (*8*) of the said section for the word "school-fund" the words "said funds" shall be substituted.

(*7*) In sub-section (*9*) of the said section :-

(*a*) for the word "school-fund" the words "municipal fund" shall be substituted;

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[1] These amendments have not been incorporated in their proper places as the sections will come into force when so notified. *See* section 1 (*2*).

[2] *Supra*, p. 569, Vol. II of this Code.

[3] *Supra*, p. 975, Vol. III of this Code.

(*b*) the words " and annex to the aid given to other primary schools such terms as shall seem expedient, subject always to by-laws duly made under section 461 and to rules made or approved by Government in this behalf " are hereby repealed.

(*3*) In section 40 of the said Act the words " in the manner described in the last preceding section or " and the word " Joint " are hereby repealed.

Amendment of section 61 of the same Act.

9. (*1*) In section 61 of the said Act after clauses (*f*) and (*g*) the following clauses respectively shall be inserted, namely :—

[*Supra, p.* 1010, *Vol. III of this Code.*]

(*2*) To clause (*q*) the following proviso shall be added, namely :—

[*Supra, p.* 1011, *Vol. III of this Code.*]

Substitution of new sections for section 62 of the same Act.

10. For section 62 of the said Act the following sections shall be substituted, namely :—

[*Supra, p.* 1011, *Vol. III of this Code.*]

" 62A.[1] In public hospitals and dispensaries established and maintained, and in connection with other measures carried out, under clause (*gg*) of section 61 such fees, if any, may be charged as may be prescribed by the corporation.

62B.[1] If at any time by or at the instance of Government primary education shall be made free, or free and compulsory, in the city, then a grant amounting to one-third of the difference between the cost thereafter annually incurred by the corporation in maintaining and aiding primary schools and the cost so incurred in the period of twelve months immediately preceding the day on which such measure comes into effect shall be paid annually to the corporation by Government :

provided that, should there at any time be a change in the general policy of Government in regard to their liability in respect of primary education, the corporation shall be entitled to benefit by such change in policy to the same extent as other city municipalities in regard to any increase in expenditure involved in the adoption of such policy.

62C.[1] (*1*) All primary schools vesting wholly or partly in the corporation and all schools wholly or partly maintained by grants payable from the municipal fund shall at all times be open to all officers appointed by Government for the inspection of schools, and all reasonable facilities shall be given to any such officer for visiting any such school for the purpose of inspection or examination.

(*2*) Every recommendation made regarding any such school by any such officer shall be duly considered by the Schools' Committee and the Schools' Committee may thereupon take such action as may in their

[1] *See* first footnote on page 1770.

opinion be required and shall, if so requested by the Director of Public Instruction for the Presidency of Bombay in any particular case, inform him of their decision and the action, if any, taken.

(*3*) In all matters connected with grants for the aid of primary schools other than municipal schools the Schools' Committee shall administer aid to schools complying with the necessary conditions in accordance with the provisions of the Government Grant-in-aid Code, subject to such modifications, if any, as may from time to time be made in the said Code by the corporation with the previous sanction of Government.

62D. [*Supra, p.* 1011, *Vol. III of this Code.*]

Repeal of section 63, clause (*a*) of the same Act.

11.[1] In section 63 of the said Act clause (*a*) is hereby repealed.

Insertion of section after section 68 of the same Act.

12.[1] After section 68 of the said Act the following section shall be inserted, namely :—

"68A. Any of the powers, duties and functions conferred or imposed upon or vested in the Commissioner by the Bombay Vaccination Act, 1877, may be exercised, performed or discharged, under the Commissioner's control and subject to his revision and to such conditions and limitations, if any, as he shall think fit to prescribe, by any municipal officer whom the Commissioner generally or specially empowers in writing in this behalf ; and in the said Act the word 'Commissioner' shall, to the extent to which any municipal officer is so empowered, be deemed to include such officer."

Insertion of sections after section 76 of the same Act.

13.[1] (*1*) After section 76 of the said Act the following headings and sections shall be inserted, namely :—

"*Officers of the Schools' Committee.*

76A. (*1*) The corporation shall from time to time appoint a fit person to be secretary to the Schools' Committee and from time to time determine his salary.

(*2*) The Schools' Committee shall from time to time appoint such clerks and messengers as it may be authorized by the corporation to employ and from time to time determine their salaries.

Appointments of medical officers in connection with measures of public medical relief.

76B. The corporation shall from time to time appoint such legally qualified medical practitioners as may be necessary to the charge of any hospital maintained by the corporation in connection with measures of public medical relief carried out under clause (*gg*) of section 61 and determine their salaries."

[1] *See* first footnote on page 1770.

(*2*) In section 80 of the said Act, after the figures " 74," the figures and letters "76A and 76B" shall be inserted.

14.[1] After section 89 of the said Act the following sections shall be inserted, namely :— Insertion of sections after section 89 of the same Act.

" 89A. On and from the commencement of the City of Bombay Police Charges Act, 1907, all the estate, right, title and interest of the corporation in and to the lands and buildings specified in Schedule V free from all liabilities and charges affecting the same and created by the corporation shall vest in His Majesty :

provided that nothing in this section shall affect any of the lands specified in the items in the said schedule numbered 28 to 139 (both inclusive) on which any moveable wooden chowki is situated at the commencement of the said Act.

89B. On and from the commencement of the City of Bombay Police Charges Act, 1907, all the estate, right, title and interest of His Majesty in and to the statue of Her Majesty Queen Victoria and the site thereof in the Esplanade road shall vest in the corporation free from all liabilities and charges affecting the same and created by Government and the said statue and the said site shall thereafter be held by the corporation in trust as a public monument, and it shall not be lawful for the corporation, except with the previous sanction of Government, to remove the said statue from the said site or to apply the said site to any other purpose.

89C. On and from the commencement of the City of Bombay Police Charges Act, 1907, all the estate, right, title and interest of His Majesty in and to the Victoria and Albert Museum and the site thereof shall vest in the corporation free from all liabilities and charges affecting the same and created by Government and the corporation may apply the said museum and the said site to any public purpose on and from such date as the Prince of Wales Museum of Western India may be declared open by Government.

89D. On and from the commencement of the City of Bombay Police Charges Act, 1907, all the estate, right, title and interest of His Majesty in and to the Central Vaccine Depôt at Parel shall vest in the corporation free from all liabilities and charges affecting the same and created by Government.

89E. On and from the commencement of the City of Bombay Police Charges Act, 1907, all the buildings used for primary education and the sites thereof within the city theretofore vesting in His Majesty shall vest in the corporation free from all liabilities and charges affecting the same and created by Government.

[1] *See* first footnote on page 1770.

89F. Notwithstanding anything contained in section 89E, if any buildings or sites in respect of which before or after the commencement of the City of Bombay Police Charges Act, 1907, any grant has been made by Government for the purposes of primary education shall without the sanction of Government be used for any other purpose, the corporation shall thereupon repay to Government the amount of such grant.

Addition of proviso to section 92 of the same Act.

15.[1] To section 92 of the said Act the following proviso shall be added, namely :—

"provided that nothing in this section shall apply to the statue of Her Majesty Queen Victoria or to the Victoria and Albert Museum or to the sites thereof referred to in sections 89B and 89C except with the previous sanction of Government."

Amendment of section 111 of the same Act.

16. In section 111 of the said Act—

(*a*) for the words "all fees," where they occur for the second time, the words "the balance, after all necessary contingent expenses have been defrayed of all fees," shall be substituted ;

(*b*) after the clause relating to fees for licenses granted under Bombay Act VI of 1863 the following clause shall be inserted, namely :—

[*Supra, p. 1036, Vol. III of this Code.*]

Amendment of section 118 of the same Act.

17.[1] In section 118 of the said Act after the figures "62" the figures and letter "62D" shall be inserted.

Repeal of section 120 of the same Act.

18. Section 120 of the said Act and the heading thereto are hereby repealed.

Amendment of section 121 of the same Act.

19.[1] In section 121 of the said Act the words "other" and "also," and in the heading to the said section the word "other," are hereby repealed.

Amendment of section 461 of the same Act.

20.[1] In section 461, clause (*u*) of the said Act,

(*a*) The word "Joint" is hereby repealed.

(*b*) the words "and of the functions assigned to it under sub-section (9) of the said section and regulating the administration by the said committee of the school-fund under sub-section (7) of the said section" are hereby repealed and after the figures "39" the word "and" shall be inserted.

Amendment of section 518 of the same Act.

21.[1] In section 518, sub-section (*l*), of the said Act, after the figures "62" the figures and letters "62C, 62D, 89F," shall be inserted.

Addition of schedules to the same Act

22.[1] The schedules hereto appended shall be added to the schedules appended to the said Act.

[1] *See* first footnote on page 1770.

Bom. IV of 1898.

23.[1] For section 40, sub-section (4), of the [2] City of Bombay Improvement Act, 1898, the following sub-section shall be substituted, namely :— Amendment of section 40 of the City of Bombay Improvement Act, 1898.

" (4) On the expiration of the lease the building and the land forming the site thereof shall vest absolutely in His Majesty."

Bom. II of 1904.

24. In section 4, sub-section (3), of the [3] Bombay Motor-vehicles Act, 1904, for the words " the total amount " the words " the balance, after all expenses incurred in administering this Act in the City of Bombay have been defrayed " shall be substituted. Amendment of section 4 of the Bombay Motor-vehicles Act, 1904.

SCHEDULE U.

(*See section 62, sub-section (1).*)

[Supra p. 1223, Vol. III of this Code.]

SCHEDULE V.

(*See section 89A.*)

LANDS AND BUILDINGS IN THE USE AND OCCUPATION OF THE BOMBAY CITY POLICE.

Consecutive number.	Name and situation of the lands and buildings.	City Survey number.	Municipal Ward number.	Approximate area in square feet of land covered with buildings.	Approximate area in square feet of open ground.
1	Quarters for Police Officers formerly used as the Police Magistrate's Court, Maharbavdi, Girgaum Back Road.	416	D 416	7,482	9,189
2	Police Station in Picquet Road ..	18	C 916	1,915	377
3	New Police Chowki near Null Bazar, Erskine Road.	3421A	C 6806	362	603
4	Police Station at the junction of Hornby Vellard and Warden Roads, Mahaluxmi.	*Nil.*	G 1	356	760
5	New Police Chowki at Jacob's Circle, Byculla.	7733	E 4572 (3)	819	2,181
6	New Chowki in Undria Street, Nagpada	4079 & 4080	E 8 & E 306	638	28
7	Bungalow No. 7, Hansraj Lane, Byculla Bridge.	3672 (2)	E 4727 to 4729	9,639	47,039
8	Police Head-quarters and Lines in Esplanade, Carnac and Hornby Roads.	8473	A 3325 to 3329 A 3715 (1 & 2) A 3716 (1 & 3)	11,422	154,555
9	Police Magistrates' Court in Esplanade and Cruickshank Roads (portion used for residential purposes only).	8472	A 3344 to 3440	1,328	*Nil.*
10	"Claremount" premises, Nesbit Lane, Mazagaon (portion used for residential purposes only).	3687	E 6151	4,422	"
11	" Grant House," Pultan Road ..	8476	A 3333 (1) & 3334 to 3336	6,101	29,315
12	New Police Chowki at Girgaum, near the Tramway Terminus, Girgaum Road.	408	D 287	598	521
13	Pound-keepers' quarters at Girgaum, near Kennedy Bridge.	7957	D 247	4,548	2,320
14	Chowki at Middle Colaba, near the Post Office, Middle Colaba Road.	9699	A 26 (2)	390	3,464
15	Police Station, Bazar Gate Road and Fort Street.	8484 & 8485	A 2163 (1)	2,194	589

[1] *See* footnote 3 on page 1770.

[2] *Supra*, p. 1434.

[3] *Supra*, p. 1719.

(*Schedule V.*)

SCHEDULE V—*continued.*

Consecutive number.	Name and situation of the lands and buildings.	City Survey number.	Municipal Ward number.	Approximate area in square feet of land covered with buildings.	Approximate area in square feet of open ground.
16	Chowki near the Queen's Statue, Esplanade Road.	8152	A 3505	444	*Nil.*
17	Sawars' stables and Superintendent's quarters in the lane leading to Mahim Fort.	55	G 5312	4,523	15,446
18	Old Police Head Office and Chowki in Byculla, Parel and Shepherd Roads.	3672	E 4727 to E 4729	7,321	51,029
19	Police Lines and Stables in Shepherd Road, Byculla.	3672	E 4727 to 4729	30,264	80,436
20	Chowki in Masjid Bandar Road, Musjid Bandar Bridge.	2652	B 1171	450	*Nil.*
21	Police Chowki and Quarters behind the old Girgaum Police Court Building, Girgaum Back Road.	7495	D 980 to 982	4,988	2,496
22	Police Chowki at Walkeshwar Reversing Station Walkeshwar Road, Malabar Hill.	7238	D 2984	481	942
23	Police Station at Pydhoni, Parel Road	1267	B 2179 (1)	2,820	51
24	Police Quarters and Lines on Wodehouse Road Estate, Colaba Causeway Road.	9561	A 885 (1 & 5)	25,794	33,408
25	Police Quarters and Lines in the 1st Nagpada Scheme, near the Parsee Statue, New Nagpada Street.	3692	A 3689 (1 & 2) & A 3690	23,013	12,600
26	Police Quarters in Shepherd Road ..	3689	E 3429 to 3448	4,248	7,569
27	Police Hospital in New Nagpada Street, Nagpada, Byculla.	3692, 3696 & 3697	E 3536 to 3542	7,656	43,023
28	Chowki in Bhandarwada Lane, Koliwada, Mandvi.	2375	B 1960	212·5	*Nil.*
29	Chowki at the junction of Kazi and Musjid Streets.	861	C 6166	180	,,
30	Chowki at the junction of the Mount, Mazagaon and Dockyard Roads, Matharpacady.	*Nil.*	E 4817	514·53	,,
31	Chowki at the junction of Church and Dholkar Streets, Mazagaon.	3363	E 6806	367	,,
32	Chowki in Parel Road, Chinchpokli ..	3621	E 7483	343	,,
33	Chowki in Upper Duncan Road ..	5683	E 537 (2)	377	182
34	Chowki in Sion Road, Coorla Causeway	1 518	F 8803 (2)	81	*Nil*
35	Chowki and Lock-up in Mahim Bazar Road.	39	G 5215	1,152	,,
36	Chowki in 1st Pasta Lane, Lower Colaba	9564	A 520	90	,,
37	Chowki in Colaba Road	9699	A 26 (2)	37·98	,,
38	Chowki on Beach Road, near the Royal Artillery Mess, Colaba.	9699	A 6 (3)	45·54	,,
39	Chowki in Pilot Street, near the Afghan Memorial Church, Colaba.	9696	A 174 (2)	39·06	,,
40	Chowki in 8th Bungalow Street, near the Bombay Infantry Mess, Colaba.	9699	A 66 (2)	45·54	,,
41	Chowki near Colaba Railway Station, Wodehouse Road.	9666	A 235 (9)	37·98	,,
42	Chowki near the Gun Carriage premises, Colaba Road.	9567	A 423 (2)	45·54	,,
43	Chowki near the Town Hall, Custom House Road.	9313	A 1057 (1)	100·00	868
44	Chowki in the compound belonging to the Improvement Trust, Wodehouse Road Buildings, Colaba Causeway.	9561	A 885 (5A)	108·00	*Nil.*
45	Chowki in Jamnagar Street, Frere Road	8480	A 2899 (2)	108·00	,,
46	Chowki in Fort Street, Mint Road ..	3 8483	A 2811 (2)	144·00	,,
47	Chowki near the Wellington Fountain at the junction of Mayo and Esplanade Roads.	9562	A 1301 (2)	108·00	,,
48	Chowki in Tabut Gali, Marine Lines	9561	A 3596	247·95	,,
49	Chowki at the entrance to the Admiral's bungalow, Marine Lines.	9666	A 3586 (2)	63·00	,,
50	Chowki near Church Gate Railway Station, Queen's Road.	8426	A 3668 (2)	84·96	,,
51	Chowki to the rear of the premises known as Major Mein's bungalow, Queen's Road.	8426	A 3668 (4)	39·96	,,

SCHEDULE V—*continued.*

Consecutive number.	Name and situation of the lands and buildings.	City Survey number.	Municipal Ward number.	Approximate area in square feet of land covered with buildings.	Approximate area in square feet of open ground.
52	Chowki at the junction of Waudby and Cruickshank Roads.	8472	A 3454 (2)	63·00	*Nil.*
53	Chowki at the junction of Pultan and Hornby Roads, Dhobi Ghat.	1 8478	A 3219 (1)	108·00	,,
54	Chowki at the junction of Frere and Carnac Roads.	3186	B 4373 (3)	60·03	,,
55	Chowki at the junction of Frere Road and Ahmedabad Street.	3186	B 4353 (2)	166·32	,,
56	Chowki near the Native Infantry Lines, Carnac Road.	8475	A 3720 (2)	108·00	,,
57	Chowki at the junction of Chinch Bandar Road and Elphinstone Overbridge.	3184	B 4117	60·03	,,
58	Chowki at the junction of Frere and Malet Bandar Roads.	3186	B 4487	60·03	,,
59	Chowki at the junction of Frere, Raichur and Elphinstone Bridge Roads.	3136	B 4471 (1)	60·03	,,
60	Chowki at the junction of Frere Road and Thana Street.	3186	B 4377 (2)	60·03	,,
61	Chowki at the junction of Queen's Road and 1st Marine Street, south of the Marine Lines Railway Station.	8099	C 2322 (6)	63·00	,,
62	Chowki at the junction of 2nd Pathan Street and Durgadevi Road, south of Northbrook Gardens.	5136	C 7889	46·98	,,
63	Chowki near French Bridge, Mathew Road	7352	D 1686 (2)	45·54	,,
64	Chowki at Chowpati Crossing, Queen's Road.	D 7298	D 2447 (3)	45·54	,,
65	Chowki near Chowpati well, Queen's Road	8005	D 2442 (3)	45·54	,,
66	Chowki at the Upper Gate of Government House, Walkeshwar Road.	7262	D 2538 (3)	45·54	,,
67	Chowki near the Ladies' Gymkhana, Ridge Road.	7295	D 3365 (2)	45·54	,,
68	Chowki at the junction of Nepean Sea and Nepean Roads.	7215	D 3316	139·97	,,
69	Chowki at Nanakachowka, Gawalia Tank Road.	7343	D 2872 (4)	45·54	,,
70	Chowki near Davar Hall, Warden Road	1 & 2 7139	D 3327 (3)	45·54	,,
71	Chowki opposite Messrs. Kemp and Company's premises, Pedder Road.	7128	D 3402 (3)	45·54	,,
72	Chowki midway between Mahaluxmi Chowki and the Chowki opposite Messrs. Kemp and Company's premises, Pedder Road.	8037	D 3465 (5)	45·54	,,
73	Chowki at the junction of Tardea Road and Forjett Street.	7064	D 3427 (2)	45·54	,,
74	Chowki at the junction of Chikalwadi and Sleater Road.	7044	D 3706 (2)	45·54	,,
75	Chowki at the junction of Bellasis and Arthur Roads, Tardeo.	1 3396	D 3882 (2)	169·29	,,
76	Chowki near the main night-soil drain, Arthur Road.	3398	D 3901 (2)	45·54	,,
77	Chowki near the Byramji Dispensary, Tardeo Road.	3386	D 3823 (2)	45·54	,,
78	Chowki near the Cowasji Patel Tank, Girgaum Back Road.	623	C 5697 (2)	46·98	,,
79	Chowki at the junction of Grant Road and Trimbak Parsharam Street.	*Nil.*	D 2368 (2)	45·54	,,
80	Chowki at the junction of Grant Road and Balaram Street.	6967	E 2305 (2)	45·54	,,
81	Chowki at the junction of Grant Road and Gilder Street.	6992	E 2694 (2)	45·54	,,
82	Chowki at the junction of Girgaum Back Road and Charni Road.	7397	D 1640 (2)	45·54	,,
83	Chowki at the junction of Gunpowder and Matharpacady Roads.	3772	E 6413 (2)	61·38	,,
84	Chowki at the junction of Ghorapdeo, Mount and Tank Bandar Roads.	3712	E 7722(2)	61·38	,,
85	Chowki near Hancock Bridge, Wari Bandar Road.	3604	E 4791 (2)	61·38	,,

SCHEDULE V—*continued.*

Consecutive number.	Name and situation of the lands and buildings.	City Survey number.	Municipal Ward number.	Approximate area in square feet of land covered with buildings.	Approximate area in square feet of open ground.
86	Chowki near the Municipal Water Tanks at the junction of DeLima Street and Wari Bandar Road.	3298	E 5062	61·38	*Nil.*
87	Chowki opposite the P. and O. Docks, Dock yard Road, off the Main Road, Mazagaon.	8452	A 3506 (2)	45·54	,,
88	Chowki at the junction of Connaught and Ghorapdeo Roads.	3643	E 8111 (2)	61·38	,,
89	Chowki at the junction of Kalachowki Ghorapdeo and Sewree Roads.	3627 (1)	E 8181	170·01	,,
90	Chowki at the junction of Chinchpokli and Albert Roads.	3624	E 8261 (2)	61·38	,,
91	Chowki in the compound of the Jamsetji Jeejeebhoy Hospital.	3621	E 4574 (3)	45·54	,,
92	Chowki at Two Tanks, at the junction of Duncan and Grant Roads.	4121	E 22	64·26	,,
93	Chowki at the junction of Bellasis Road and Gilder Street.	3524	E 3406 (2)	61·83	,,
94	Chowki near Messrs. Anderson's stables, Bellasis Road.	6906	E 3112 (2)	60·48	,,
95	Chowki near the Parsee Statue, Bellasis Road.	6486	E 589 (3)	61·29	,,
96	Chowki at the junction of Haines and DeLisle Roads.	3461	E 7042 (2)	60 03	,,
97	Chowki at the junction of DeLisle and Clarke Roads.	3417	E 7397 (2)	61·29	,,
98	Chowki at the junction of Haines, Clare and Sankli Roads.	*Nil.*	E 4272	159·93	,,
99	Chowki at the junction of Sankli Ripon Roads.	3540	E 4023 (2)	46·62	,,
100	Chowki at the junction of Ripon and Moreland Roads.	3483	E 4545 (2)	46·60	,,
101	Chowki at the junction of Moreland Byculla Club Roads.	3526	4109 (2)	159·93	,,
102	Chowki at the junction of the five roads in the Agripada Estate belonging to the Bombay Improvement Trust.	3505	E 4093 (3)	46·62	,,
103	Chowki at the junction of Sion, Dharavi and Sion Fort Roads.	*Nil.*	F 6404 (2)	159·93	,,
104	Chowki near the Hindu Temple, Matunga-Agar Road.	2 927 18	F 7799 (1)	159·93	,,
105	Chowki at the junction of Wadala and Antop Hill Roads.	1101	F 4559	159·93	,,
106	Chowki near Sewree village, Sewree Road.	2269	F 2461 (2)	159·93	,,
107	Chowki at the junction of Naigaon and Naigaon Cross Roads.	1190	F 6481 (2)	159·93	,,
108	Chowki opposite the Fire Brigade Station at the junction of Naigaon Cross and Vincent Roads.	1 2089	F 829 (3)	159·93	,,
109	Chowki near the G. I. P. Railway Level Crossing at the junction of Dadar and Naigaon Cross Roads.	4 1263	F 6435 (3)	159·93	,,
110	Chowki near Matunga Station on the G. I. P. Railway.	2036	F 667 (2)	159·93	,,
111	Chowki at the junction of Soparibag and Elphinstone Roads.	1968	F 388 (2)	159·93	,,
112	Chowki north of Parel Tank Road, Parel.	37 2488	F 2759 (3)	159·93	,,
113	Chowki at the junction of Parel Tank and Golanjee Hill Roads.	5 2488	F 2732 (2)	159·93	,,
114	Chowki at Jackeria Bandar, Sewree Road.	3725	F 2761 (2)	45·56	,,
115	Chowki at the junction of Kalachowki and Parel Roads.	2599 1 & 2	F 36 (2)	159·93	,,
116	Chowki at the junction of Parel and Soparibag Roads.	2539	F 112 (1)	159·93	,,
117	Chowki at the junction of Soparibag and Currie Roads.	2566	F 124 (2)	59·93	,,
118	Chowki opposite the G. I. P. Railway Workshops, Soparibag Road.	2582	F 564 (2)	4556	,,

(*Schedule V.*)

SCHEDULE V—*concluded.*

Consecutive number.	Name and situation of the lands and buildings.	City Survey number.	Municipal Ward number.	Approximate area in square feet of land covered with buildings.	Approximate area in square feet of open ground.
119	Chowki at the junction of Custom and Lady Jamsetji Roads.	54	G 5149 (2)	184·95	*Nil.*
120	Chowki near Mahim Bazar Cross Road, Lady Jamsetji Road.	137	G 5695 (2)	45·56	,,
121	Chowki near the Gopi Tank, Lady Jamsetji Roads.	2 1394	G 4063 (2)	45·56	,,
122	Chowki near Shivaba's Door Post, Hasali, Lady Jamsetji Roads.	*Nil*	G 4221	45·56	,,
123	Chowki near the path leading to Manmalla Tank, Lady Jamsetji Road.	130	G 5721 (2)	45·56	,,
124	Chowki at the junction of Lady Jamsetji, Dadar and Portuguese Church Streets.	1446	G 4307 (2)	137·97	,,
125	Chowki in Dharavi Road	5 296	G 6149 (2)	137·97	,,
126	Chowki near the Sion Railway Station, Dharavi Road.	3 423	G 7606 (2)	49·95	
127	Chowki at the Cross Post, Mahim Bazar Road.	1506	G 4842 (2)	45·56	,,
128	Chowki at the junction of DeLisle and Arthur Roads.	3 2718	G 2223 (2)	45·56	,,
129	Chowki at the junction of DeLisle and Fergusson Roads.	3 3205	G 1025 (2)	45·56	,,
130	Chowki at the junction of DeLisle and Carroll Roads.	5 2236	F 2340 (2)	137·97	,,
131	Chowki near the B., B. & C. I. Railway Crossing, Elphinstone Road.	1 2635	G 2495 (2)	45·56	,,
132	Chowki at Saitan Gate, Khumbarwada, Dadar.	1834	G 3388 (3)	45·56	,,
133	Chowki at the junction of Cleveland and Worli Roads.	3035 3	G 2538	171·00	,,
134	Chowki in Pakadi Road, Worli,	3205	G 1383 (2)	45·56	,,
135	Chowki at the junction of Hornby Vellard and Worli Roads.	3346	G 6 (3)	45·56	,,
136	Chowki at the junction of Haines and Fergusson Roads.	13 3299	G 184 (2)	45·56	,,
137	Chowki near the B., B. & C. I. Railway Crossing, Haines Road.	2725	G 1000 (2)	138·96	,,
138	Chowki in Jamnagar Street, Mody Bandar.	8484	A 2904 (7)	147·96	,,
139	Chowki at the junction of Falkland and Foras Roads.	6934	E 155	474·48	,,
140	A plot of land near the present Water Police Station, situated between Karwar and Boa Streets.	8480	A 2730 and 2744 (5)	*Nil*	29,665
141	A plot of land near Prince's Dock, situated between Raichur Street and Elphinstone Bridge Road.	3186	B 4468 B 4469 & B 4470	,,	27,200

BOMBAY ACT NO. I OF 1908.[1]

[*1st September, 1908.*]

An Act to amend the Government Occupants (Sind) Act, 1899.

WHEREAS it is expedient to amend the Government Occupants (Sind) Act, 1899,[2] in manner hereinafter appearing; it is hereby enacted as follows:— Bom. III of 1899.

Short title.

1. This Act may be called the Government Occupants (Sind) Amendment Act, 1908.

Substitution of new sections for sections 5 and 6.

2. For sections 5 and 6 of the Government Occupants (Sind) Act, 1899,[2] hereinafter called "the said Act", the following sections shall be substituted, namely:— Bom. III of 1899.

Power to grant occupancies on such conditions.

"5. When any such statement has been issued for any tract, the Collector may, in manner hereinafter provided, grant occupancies of lands in such tract on the conditions prescribed in such statement.

Mode of making such grants.

"6. Before an occupancy of any lands is granted on such conditions to any person in any such tract, the Collector shall prepare a sanad in duplicate describing such lands and otherwise in such form and containing such particulars as the Local Government may prescribe. One copy shall be signed by the proposed occupant in token of acceptance of the occupancy and shall be retained by the Collector, and the other copy shall thereupon be delivered to such proposed occupant:

"Provided that where the Collector, in lieu of any of the lands described in any such sanad, subsequently grants the occupancy of any other lands in any such tract, he may, instead of preparing a fresh sanad in duplicate as aforesaid, endorse a note of this on the copies of the sanad already prepared, and have the endorsement on his copy signed by the occupant in token of his consent thereto."

Amendment of section 7.

3. In section 7 of the said Act,

(*a*) for the words "entry in any such register" the words "such sanad or endorsement thereon" shall be substituted;

(*b*) for the word "entry", where it occurs for the second time, the words "sanad or endorsement thereon" shall be substituted;

(*c*) for the words "prescribed in the statement prefixed to such register" the words "on which the occupancy has been granted under sections 5 and 6" shall be substituted.

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1 For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1908, Pt. VII, p. 2; and for Proceedings in Council, *see ibid*, 1908, Pt. VII, p. 81.

2 *Supra*, p. 1507.

4. In section 10 of the said Act, the concluding sentence is hereby repealed. Repeal of portion of section 10.

5. Any occupancy heretofore granted by the Collector, which expressly purports, or may be reasonably held to have been intended, to have been granted in pursuance of the said Act, shall be valid and deemed to have been granted under that Act, as amended by the foregoing sections of this Act. Saving of validity of past grants of occupancies.

BOMBAY ACT No. II OF 1908.[1]

[*4th December, 1908.*]

An Act further to amend the City of Bombay Improvement Act, 1898.

Bom. IV of 1898.

WHEREAS it is expedient further to amend the [2] City of Bombay Improvement Act, 1898, in manner hereinafter appearing;

55 and 56 Vict., c. 14.

And whereas the previous sanction of the Governor-General required by section 5 of the Indian Councils Act, 1892, has been obtained to the passing of this Act; It is hereby enacted as follows :—

1. This Act may be called the City of Bombay Improvement (Amendment) Act, 1908. Short title.

Bom. IV of 1898.

2. In clause (*l*) of section 47 of the City of Bombay Improvement Act, 1898, hereinafter called "the said Act," for the latter part commencing with the words "and clause (*b*)," the following shall be substituted, namely :—

[*Supra*, p. 1454.]

3. For section 50 of the said Act the following section shall be substituted, namely :— Substitution of new section for section 50.

[*Supra*, p. 1458.]

4. The amendments to the said Act contained in sections 2 and 3 shall be deemed to have been made and to have effect from the date of the commencement of the said Act. Restrospective effect of sections 2 and 3.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1908, Pt. VII, p. 164, and for Proceedings in Council, *see ibid*, p. 182.

[2] *Supra*, p. 1436.

PART I.

BOMBAY REGULATION.

BOMBAY REGULATION II OF 1827.

* * * * * * *

[1]CHAPTER VI.

OF PLEADERS.

47. *First.*—Natives or others may be authorized to practise in each Court as pleaders (vakils)[2] in behalf of parties in any judicial proceeding, being qualified by sanad according to the rules in the succeeding section. Authorized pleaders to hold sanads.

Second.—No person shall be allowed to act in any such proceeding except such pleaders, or the parties themselves or their recognized agents * * *.[3] Persons allowed to act.

Third.—[*Exception as to Court of Commissioner.*] *Repealed by Act I of 1846.*

Fourth.—In matters to which Government is a party, it shall be lawful for a pleader to act on a general vakálatnáma, to be issued by the officer under whose control the said matters are conducted, provided a duplicate be deposited in the Zila Court of the district in which he practises. Government pleader may hold general vakálatnáma.

48. *First.*—The number of pleaders shall not be limited, but any person duly qualified and of unexceptionable character shall be entitled to a sanad of appointment.[2] Number of pleaders unlimited.

Second.—[*Qualifications*; *appointment how made.*] *Repealed by Act I of 1846.*

Third.—Each pleader, on being found qualified, shall be furnished with a sanad, under the seal of the Court of Sadr Díwáni Adálat, in the form of Appendix J.[2] Sanads to be furnished.

49. The pleaders in the Zila Courts shall practise each in such particular Court or Courts as may be assigned to them by the Zila Judge, or indiscriminately in all the Courts of the respective zila, if it be not found necessary to appropriate the pleaders to particular Courts. Practice of pleaders how regulated.

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1 This chapter of Regulation 2 of 1827 and appendices J, K and L have been reprinted in this Addendum as s. 42 of the Legal Practitioners Act, 1879 (18 of 1879), has not yet been declared to be in force in the Bombay Presidency.

2 *Cf.* Act I of 1846, ss. 4, 5, in General Acts, Vol. I.

3 Portion repealed by Act XII of 1873 is omitted.

Pleader to file vakálatnáma.

50. *First.*—A pleader shall not be allowed to act in any suit or proceeding until he has obtained from the party, and filed in Court, a power-of-attorney (vakálatnáma), according to the form contained in Appendix K, appointing him pleader in the cause.

Retaining fee to be paid to pleader.

Second.—If a party engages a pleader to act in his behalf, he shall present him with eight annas as a retaining fee, for which the pleader shall grant him a written acknowledgment, specifying the date of payment; and, if the said retaining fee be not offered, the pleader shall demand it, and abstain from all proceeding until it be delivered.[1]

Penalty for failure to perform engagement.

Third.—If, after receiving the retaining fee, a pleader shall engage with, or act for, the other party, or refuse or omit to act on behalf of his client, he may be punished by a fine not exceeding rupees five hundred; or, if the matter in litigation be less than rupees two hundred and fifty, then not exceeding twice the amount of the sum in dispute between the parties; or, if the circumstances are of an aggravated nature, may be suspended or dismissed [2]* * *

Court empowered to fine.

Fourth.—The fine may be inflicted by the Court in which the suit relative to which the failure of duty occurred may be pending * * * *.[3]

51. *First.*—[*Representative character of pleader.*] *Rep. Act X of* 1861.

Pleader to give receipts to client for papers and to return them when required. Penalty for misconduct.

Second.—It shall be incumbent on a pleader, at the time of receiving any accounts, writings or documents from his client, to give a written receipt for them, and to restore them when required, under penalty of a fine not exceeding rupees one hundred, to be levied under the[4] * * * last clause of the preceding section; or, if the circumstances be of an aggravated nature, of suspension or[5] [dismissal.][6] * * *

Fees in original suits.

[7] **52.** *First.*—Each pleader employed in prosecuting or defending an original suit shall be entitled to a percentage on the amount sued for, according to the rates specified in Appendix L, as a remuneration for his trouble in acting in behalf of his client, until the decree in the suit is passed, and thereafter until such decree is fulfilled.

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1 *Cf.* Act I of 1846, ss. 7, 8, in General Acts, Vol. I.

2 The words and figures "under the rules contained in section 56 of this Regulation" were repealed by the Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

3 Words repealed by Act XII of 1873 are omitted. *Cf.* Act I of 1846, ss. 10, 12.

4 The words "rules contained in the" were repealed by the Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

5 The word "dismissal" was substituted for the word "dismission" by the Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

6 The words and figures "according to section 56 of this Regulation" were repealed by the Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

7 S. 52 is modified by Act I of 1846, ss. 6 and 7.

Second.—The remuneration to a pleader employed in prosecuting or defending an appeal, regular or special, shall be the same as is above prescribed in the case of an original suit. In Appeals.

Third.—The above rules shall not prevent an express agreement being entered into between pleader and client, for either a larger or smaller sum than the established fee. Private agreement not barred.

Fourth.—But, if a larger sum than was agreed for between a pleader and client is awarded in costs against the other party, the pleader, notwithstanding his agreement with his own client, shall be entitled to the excess when recovered. Pleader to have excess when costs awarded against other party exceed amount agreed upon.

Fifth.—[*Recovery of fees.*] *Rep. Act XII of 1873.*

53. *First.*—[*Half-fees.*] *Rep. Act XII of 1873.*

Second.—Either party may engage two or more pleaders to conduct his suit or defence, but the party found liable in costs will not be answerable for more than the established fee of one pleader on behalf of the other party. Several pleaders may be engaged, but without prejudice to opposite party.

Third.—It shall be competent to a party at any time to withdraw the authority vested in a pleader to act in his behalf, on giving the Court notice in writing to that effect; but it shall not be competent to a pleader to withdraw from acting in behalf of his client without his consent or the special permission of the Court. Client may withdraw his vakálatnáma, but pleader not to withdraw without his consent or order of Court.

Fourth.—[*Fees in certain cases.*] *Rep. Act XII of 1873.*

54. *First.*—If a pleader is unable to attend the Court in consequence of indisposition or other necessary cause, he shall notify the same to the Court in writing, in which case proceeding in the suit shall be stayed for such time as the Court deems reasonable, to enable the party to transfer by endorsement or otherwise his power-of-attorney (either temporarily or until the suit is determined) to another pleader; and any pleader absenting himself without written notice as above prescribed may be punished by fine not exceeding rupees one hundred, to be adjudged by the Court in which the failure of duty occurred, and levied as the amount of a decree by the same. * * * * [1] Pleader's absence to be reported. Penalty for absence without notice.

Second.—In case of the resignation, dismissal or death of a pleader, proceedings in the suit shall in like manner be stayed * * * *.[1] Stay of proceedings on resignation or death.

55. [*Fees in certain cases.*] *Rep. Act I of 1846.*

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[1] Words repealed by Act XII of 1873 are omitted.

Pleaders liable to suspension or dismissal without prejudice to private action for damages.

56. A pleader accused of a criminal offence, or guilty of misbehaviour or neglect of duty, shall be liable to be suspended or dismissed * * * * [1]; but nothing herein contained shall prevent a party from instituting an action for damages against his pleader, when he may consider himself injured by his acts or omissions.

* * * * * * *

APPENDIX J.

(*See section 48, clause third.*)

FORM OF SANAD GRANTED TO A PLEADER.

Seal of the Sadr Díwáni Adálat.

To *A. B.*, inhabitant of————.

In conformity with the provisions of Regulation II, A.D. 1827, you, *A. B.*, are hereby appointed to the office of Pleader in the Court of————: you will not be liable to be removed from your situation during your good behaviour, while you discharge your duty with zeal and integrity, under the rules contained in the Regulations which now are or hereafter may be in force.

By order of the Sadr Díwáni Adálat.

(*Signed by the Registrar.*)

APPENDIX K.

(*See section 50, clause first.*)

FORM OF POWER-OF-ATTORNEY TO ENABLE A PLEADER TO ACT IN A SUIT.

IN THE COURT OF————.

Suit for Rs.————.

————*Plaintiff*,

against

————*Defendant.*

[1] The words and figures "*under the rules regarding Commissioners, contained in the third clause of section 38 of this Regulation*" were repealed by the Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

(*Appendix L.*)

I————plaintiff (*or* defendant, *as the case may be*) do hereby authorize ————to appear and act as Pleader for me in the above suit.

Witness my hand, this—day of————, 18—.

(*Signed or the mark of*) { The Plaintiff / *or* / Defendant.

APPENDIX L.

(*See section 52, clause first.*)

STATEMENT SHOWING THE FEES TO WHICH PLEADERS ARE ENTITLED FOR ACTING THROUGHOUT ORDINARY SUITS WHEN THERE IS NO SPECIFIC AGREEMENT.

The Pleader's fee is	in suits for not more than Rs. 2,000 . . .	three per cent.
	in suits for from Rs. 2,000 to 10,000 inclusive— on Rs. 2,000 as above, and on the remainder . .	two per cent.
	in suits for from Rs. 10,000 to 20,000 inclusive— on Rs. 10,000 as above, and on the remainder . .	one per cent.
	in suits for more than Rs. 20,000— on that sum as above, and on the remainder . .	half per cent.

PART II.

LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL IN FORCE IN BOMBAY.

ACT NO. IV OF 1908[1].

[*14th February, 1908.*]

An Act further to amend the Coroners Act, 1871, *and the Prisoners Act, 1900.*

IV of 1871. III of 1900.

WHEREAS it is expedient further to amend the [2] Coroners Act, 1871, *and* [3] *Prisoners Act, 1900*; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Coroners (Amendment) Act, 1908.

Amendment of section 9, Act IV of 1871.

2. In section 9 of the said Act, for the word "buried" the words "disposed of" shall be substituted.

Amendment of section 11, Act IV of 1871.

3. In section 11 of the said Act, for the words "where the first was insufficient" the words "where the Coroner considers it necessary or desirable in the interests of justice to take a further inquisition" shall be substituted.

Addition of proviso to section 15, Act IV of 1871.

4. To section 15 of the said Act the following shall be added, namely:—

"Provided that the Coroner may, with the concurrence of a majority of the jury, dispense with a view of the body, if he is satisfied, from medical evidence or medical certificates, that no advantage would result from such viewing."

Amendment of section 17, Act IV of 1871.

5. In section 17 of the said Act, for the words and figures "Act No. XV of 1869 (*to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them*)," the words and figures "Part IX of the Prisoners Act, 1900", shall be substituted.

Addition of new section 18A to Act IV of 1871.

6. After section 18 of the said Act the following shall be inserted, namely:—

Report of Chemical Examiner.

"18 A. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1907, Pt. V, p. 2; for Report of Select Committee, *see ibid*, 1908, Pt. V, p. 31; and for Proceedings in Council, *see ibid*, 1907, Pt. VI, p. 6, and *ibid*, 1908, Pt. VI, p. 12.

This Act was passed while this Volume was passing through the Press. The principal Act (4 of 1871) is printed at p. 107 of Vol. I, and this Act is therefore printed at the end of Vol. IV of the Code as an addendum for convenience of reference.

2 Vol. I of this Code, p. 107.

3 General Acts, Vol. VII, p. 119.

in the course of any proceeding under this Act, may be used as evidence in any inquest under this Act and in any subsequent inquiry, trial or other proceeding under the [1] Code of Criminal Procedure, 1898." V of 1898.

Addition to section 21, Act IV of 1871.

7. To section 21 of the said Act the following shall be added, namely :—"and the whole, or such part thereof as to the Coroner seems fit, shall, in default of attendance by the jurors, be recoverable in the same manner as a fine imposed under section 31."

Substitution of new section 25, Act IV of 1871.

8. For section 25 of the said Act the following shall be substituted, namely :—

Procedure where death is found due to an act amounting to an offence.

"25. When the jury or a majority of the jury find that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in British India, the Coroner shall immediately after the inquest forward a copy of the inquisition, together with the names and addresses of the witnesses, to the Commissioner of Police."

Substitution of new section 26, Act IV of 1871.

9. For section 26 of the said Act the following shall be substituted, namely :—

Power to arrest and commit for trial.

"26. The Coroner may also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person who is found to have caused the death of the deceased person, and send him forthwith to a Magistrate empowered to commit him for trial."

Repeal of section 27, Act IV of 1871.

10. Section 27 of the said Act is hereby repealed.

Amendment of section 28, Act IV of 1871.

11. In section 28 of the said Act, for the word "burial" the word "disposal" shall be substituted.

Amendment of Second Schedule, Act IV of 1871.

12. In the Second Schedule of the said Act, for the words "on view of the body of A. B. then and there lying dead" the words "in the case of A. B. deceased" shall be substituted.

[2] * * * * * * * * *

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1 Genl. Acts, Vol. V.

2 Section 13 amends s. 11 of the Prisoners Act, 1900 (3 of 1900), and is therefore not reproduced here.

ACT NO. VIII OF 1908.[1]

[*10th July, 1908.*]

An Act to amend the Local Authorities Loan Act, 1904.

III of 1904. WHEREAS it is expedient to amend the Local Authorities Loan Act, 1904 ; It is hereby enacted as follows :—

1. This Act may be called the Local Authorities Loan (Amendment) Act, 1908. Short title.

2. In section 2 of the Local Authorities Loan Act, 1904, for the words " bills repayable " the words " bills or promissory notes payable " shall be substituted ; and in the proviso to the same section, after the word " bills " the words " or promissory notes " shall be inserted. Amendment of section 2, Act III, 1904.

1 For Statement of Objects and Reasons, *see* Gazette of India, 1908, Pt. V, p. 281 ; and for Proceedings in Council, *see ibid*, 1908, Pt. V, pp. 128 and 141.

This Act was passed while this Volume was passing through the Press. The principal Act (3 of 1904) is printed at p. 241 of Vol. I of this Code and this Act is therefore printed at the end of Vol. IV of the Code in the addendum for convenience of reference.

PART III.

REGULATION UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT. C. 3.)

REGULATION NO. II OF 1908.

A Regulation for Protecting the Perim Pearl Fishery.

Received the assent of the Governor General on the 16th September, 1908, published in the Gazette of India on 26th idem ; and in the Bombay Government Gazette on the 1st October, 1908.

WHEREAS the right to fish for pearl and pearl shell in the territorial waters of the Island of Perim belongs exclusively to Government ; and whereas it is expedient to provide for the protection of this right by prohibiting fishing by the public save under license ; It is hereby enacted as follows :—

1. This Regulation may be called the Perim Pearl Fishery Regulation, 1908. Short title.

2. In this Regulation, unless there is anything repugnant in the subject or context,— Definitions.

(1) "Resident" means the Political Resident at Aden ; and

(2) "pearl oyster" includes the brood and spawn of pearl oysters but does not include ordinary edible oysters.

3. No person shall fish for pearl or pearl shell in the territorial waters of Perim except under a license granted by the Resident and to the extent and in the manner prescribed thereby. Prohibition of fishing for pearl without license.

4. (*1*) The Resident, with the previous sanction of the Local Government, may make rules to carry out the purposes and objects of this Regulation. Power of Resident to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the form of licenses, the period and limits within which, and the conditions subject to which, licenses may be granted, and the fees to be paid by licensees ;

(*b*) regulate the management and inspection of the fishery and prescribe the seasons of fishing and the size of shell which may be taken ; and

(*c*) prescribe the accounts to be kept and the returns to be submitted by licensees, the particulars to be entered therein, and the manner in which they should be verified.

(*3*) All rules made under this section shall be published in the local official Gazette, and onsuch publication shall have effect as if enacted in this Regulation.

Certain acts prohibited.

5. No person other than a licensee, and his agents, servants and workmen, acting within the limits, if any, prescribed in his license, shall do, within the territorial waters of Perim, any of the following things, namely :—

(*1*) use any implement of fishing, except a line and hook or a net, adapted solely for catching floating fish and so used as not to disturb or injure in any manner any pearl oyster bed or pearl oysters or the pearl fishery ; or

(*2*) dredge for ballast or any other substance, whether of the like description or not, except under a lawful authority for improving the navigation ; or

(*3*) place any implement, apparatus or thing prejudicial or likely to be prejudicial to any pearl oyster bed or pearl oysters or to the pearl fishery, except for a lawful purpose of navigation or anchorage ; or,

(*4*) except as last aforesaid, disturb or injure in any manner any pearl oyster bed or pearl oysters or the pearl fishery.

Penalties.

6. (*1*) Whoever does any act in contravention of section 5 shall be punishable—

(*a*) for the first offence with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both ; and

(*b*) for the second and every subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) Whoever wilfully does any act in contravention of any rule made under section 4 or any condition of a license granted under section 3 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Procedure.

7. Any offence under this Regulation committed in the territorial waters of Perim may be tried, punished and in all respects dealt with as if it had been committed on the land abutting on the sea coast of the Island of Perim.

Liability of master of ship for offences committed on board.

8. Where any offence under this Regulation has been committed by some person conveyed in a ship or boat, the master or person for the time being in charge of such ship or boat shall be deemed to have committed such offence unless he proves that he used due diligence to enforce the observance of this Regulation and that the offence in question was actually committed by some other person without his connivance, and that the actual offender has been convicted, or that he has taken all practical means in his power to prosecute such offender (if alive) to conviction.

Forfeiture of pearls, etc., by order of convicting Court.

9. On the conviction of any person for an offence punishable under this Regulation, the convicting Court may, in addition to any other penalty prescribed for such offence, order the forfeiture of all pearl and pearl oysters in respect of which such offender is convicted, and of the ship or boat in which such offender was conveyed, and her tackle, apparel and furniture, and any property on board thereof, and of any implement, apparatus or thing placed or used in contravention of the provisions of this Regulation.

Arrest without warrant.

10. Any police-officer, or other person especially empowered by the Resident in this behalf, may arrest without warrant any person committing in his view any offence punishable under this Regulation, or any person reasonably suspected of having been concerned in any such offence who refuses to give his name and residence, or gives a name and residence which there is reason to believe to be false.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

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Volume I, page 2.—*After* Chapter VI *insert* [2] *After* note 1 *insert* [2] Chapter VI and appendices, J, K. and L are reprinted in the addendum to Volume IV. Section 42 of the Legal Practitioners Act, 1879, has not yet been extended to the Bombay Presidency.

Volume I, page 3.—*After* 280 in note 1 *add* *See* second footnote on page 2.

Volume II, page 584.—*After* spirits of wine in clause (7) *insert* [1A] [methylated spirits] and *after* alcohol *insert* [1A][and 'spirits' means liquor containing alcohol and obtained by distillation, whether it be denaturalised so as to render it unfit for human consumption or not].

Volume II, page 584.—*After* note 1 *add* the following footnote. [1A]The words in square brackets in clause 7 were inserted by the Bombay Abkari (Amendment) Act, 1903 (Bombay Act 1 of 1903), section 2, Volume IV of this Code.

Volume II, page 590.—In section 18A (2) *after* "districts of" *insert* [3] [Broach, Nasik (except the taluqa of Peint)] and *after* "Kolaba" *insert* [3] [and of the taluqas of Pardi, Bulsar and Chikhli of the district of Surat].

Volume II, page 590.—*After* note 2 *add* [3] The words in square brackets were inserted by clauses (*a*) and (*b*), respectively, of section 1 of Bombay Act 3 of 1905, Volume IV of this Code.

Volume II, page 601.—In clauses (*c*) and (*e*) of section 45 for the words "commits any act" *substitute* [3] [wilfully does or omits to do anything.]

Volume II, page 601.—*After* note 2 *add*[3] The words in square brackets in clauses (*c*) and (*e*) were inserted by the Bombay Repealing and Amending Act, 1905 (Bombay Act 4 of 1905), section 2 and first Schedule, Volume IV of this Code.

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